

BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RECEIVED
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4:10 pm Jul 29, 2019

SUNBREAK FARMS, LLC,

Petitioner,

SOUTH FLORIDA
WATER MANAGEMENT DISTRICT



vs.

SFWMD NO. 2019-050-DAO-ERP

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,

Respondent.

_____ /

**ORDER DENYING PETITIONER'S MOTION TO ABATE AND
TRANSMITTING PETITION AND RELATED MOTIONS TO INTERVENE
TO THE DIVISION OF ADMINISTRATIVE HEARINGS**

The South Florida Water Management District ("District") issues this Order transmitting Sunbreak Farms, LLC's, Petition for Formal Administrative Proceeding ("Petition") to the Division of Administrative Hearings ("DOAH") for assignment of an Administrative Law Judge ("ALJ") to conduct a formal administrative hearing. The Petition is attached as Exhibit A.

FINDINGS OF FACT

1. On June 13, 2018, Sunbreak Farms, LLC ("Sunbreak") submitted to the District Application No. 180613-16 ("Application") for a modification to existing Environmental Resource Permit 56-00111-S ("Existing Permit") to construct new containment berms within the stormwater management system.

2. The District provided Sunbreak a Notice of Proposed Agency Action to Deny the Application with an attached Notice of Rights on May 24, 2019. The Notice of Proposed Agency Action is attached as Exhibit B.

3. Sunbreak filed its Petition on June 11, 2019, objecting to the District's proposed agency action and requesting an administrative hearing.

4. St. Lucie County ("St. Lucie") filed a verified Motion to Intervene in Support of SFWMD on June 17, 2019.¹ St. Lucie's motion is attached as Exhibit C.

5. Indian River County ("Indian River") filed a Motion to Intervene in Support of the District on June 20, 2019. Indian River's motion is attached as Exhibit D.

6. On June 28, 2019, St. Johns River Water Management District ("SJRWMD") filed a Motion to Intervene in Support of SFWMD. SJRWMD's motion is attached as Exhibit E.²

7. On July 18, 2019, Sunbreak filed a Motion to Abate, requesting the District hold its Petition and not refer it to DOAH for 60 days "to allow Sunbreak to consider and review the status of this matter and its options with regard to the requested permit." Mtn. to Abate, ¶ 3. Sunbreak's Motion to Abate is attached as Exhibit F.

CONCLUSIONS OF LAW

8. A party whose substantial interests are determined by an agency may request an administrative hearing. §120.569(1), Fla. Stat. (2019). A party requesting a hearing under Sections 120.569 and 120.57 of the Florida Statutes must file a petition within 21 days of receipt of written notice of that decision.

9. The District finds that Sunbreak's substantial interests are affected by the District's proposed agency action and Sunbreak filed a timely petition for hearing.

10. The District is required to act on a petition in accordance with Section 120.569(2)(a) of the Florida Statutes. Before a petition is referred to DOAH, the District

¹ St. Lucie also filed an Amended Certificate of Service on June 24, 2019.

² The District has no objection to St. Lucie's, Indian River's, and SJRWMD's proposed interventions.

must carefully review the petition and determine if it is in substantial compliance with the requirements of Section 120.54(5)(b)4 of the Florida Statutes and Subsection 28-106.201(2) of the Florida Administrative Code.

11. Without relinquishing the right to file responsive or defensive pleadings as may be permitted and without admitting the validity of Sunbreak's allegations, the District finds that the Petition meets the minimum pleading requirements and concludes the Petition provides a sufficient basis to grant the requested administrative hearing in accordance with Section 120.569 and 120.57(1) of the Florida Statutes.

12. Persons other than the original parties to a pending proceeding whose substantial interests may be affected by the proceeding and who desire to become parties may move for leave to intervene if they provide allegations sufficient to demonstrate that the potential intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right, pursuant to agency rule, or that its substantial interests are subject to termination or will be affected by the proceeding. §120.56(1), Fla. Stat. (2019); Section 28-106.205, Fla. Admin. Code.

13. Additionally, a political subdivision or municipality of the state or a citizen of the state shall have standing to intervene as a party on the filing of a verified pleading asserting that the activity has or will have the effect of impairing, polluting, or otherwise injuring the air, water or other natural resources of the state. §403.412(5), Fla. Stat. (2019).

14. After careful consideration of Sunbreak's Motion to Abate, the District finds that Sunbreak may seek a continuance of the administrative proceeding from the

assigned ALJ under Section 28-106.210 of the Florida Administrative Code. The District does not waive its entitlement to take a position on any future continuances.

15. The District's Governing Board delegated the authority to enter orders determining a petition's substantial compliance with pleading requirements to the Executive Director and General Counsel. §373.083(5), Fla. Stat. (2019), *South Florida Water Management District Policies Code*, Subsection 101-22(a)(4).

ORDER

16. WHEREFORE, the District denies Sunbreak Farm, LLC's Motion to Abate, and transmits Sunbreak Farms, LLC's Petition for Formal Administrative Hearing and the related motions to intervene to the Division of Administrative Hearings for assignment of an Administrative Law Judge to:

- a. Rule on the pending motions to intervene filed by St. Lucie County, Indian River County, and St. Johns River Water Management District;
- b. Conduct all necessary proceedings required under Section 120.569 and 120.57(1) of the Florida Statutes; and
- c. Submit a Recommended Order to the District addressing all relevant issues.

DONE AND SO ORDERED in West Palm Beach, Florida, on this 27th day of July 2019.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
Paula L. Cobb, General Counsel


PAULA L. COBB

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of foregoing has been furnished
this 29th day of July 2019, via electronic mail to:


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**STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

RECEIVED
DISTRICT CLERK'S OFFICE
1:06 pm Jun 11, 2019

SUNBREAK FARMS, LLC,
a Delaware limited liability company.

Petitioner,

SFWMD No.

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT**

vs.

ERP No. 56-00111-S
(Application No. 180613-16)



**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,**
a public corporation of the State of Florida,

Respondent.

_____ /

PETITION FOR FORMAL ADMINISTRATIVE HEARING

SUNBREAK FARMS, LLC, a Delaware limited liability company ("Sunbreak Farms"),
by and through its undersigned counsel, and pursuant to Rule 28-106.201, Fl. Admin Code,
hereby submits this petition for formal administrative hearing in regards to Application No.
180613-16 ("Application") to modify existing South Florida Water Management District
("SFWMD") Environmental Resource Permit ("ERP") No. 56-00111-S ("Permit"), and states as
follows:

PARTIES

1. The name and address of the agency is:

South Florida Water Management District

3301 Gun Club Road

West Palm Beach, Florida 33406
2. The name and address of the Petitioner is:

Sunbreak Farms, LLC

5101 Minute Maid Road

Fort Pierce FL 34945

BACKGROUND, HISTORY

3. As provided above, this is an action to challenge a Proposed Agency Action by SFWMD to deny a modification to the Permit, pursuant to the Application.

4. Sunbreak Farms, LLC, a Delaware limited liability company, is the owner of, and operates a farm on, certain real property that is the subject matter of the Permit and is located in St. Lucie and Indian River Counties. Sunbreak Farms filed the Application, and by and through the undersigned counsel, files this challenge to its denial.

5. Sunbreak Farms grows corn to be used as silage for cattle feed, and cover crops between corn crops. It currently uses chemical fertilizers to provide nutrients to its crops. Its farming operations are overseen by professional farm managers.

6. Sunbreak Farms operates on property originally established by the Minute Maid Corporation as “Cloud Grove,” a citrus grove established over 50 years ago. Because it pre-dates the establishment of Florida’s water management districts and much of its infrastructure for drainage, the property was designed to hold its own stormwater, and generally does not need to discharge to area canals, although the Permit allows discharge. The property includes 67 miles of ditches and canals and a 640-acre reservoir which are collectively capable of holding sufficient water to avoid the need for the property to discharge in a typical season.

7. Sunbreak Farms receives less rainfall in an average year than is required for its crops, and its ground water has high salinity levels which limit its use for crops. Accordingly, Sunbreak Farms generally does not discharge from its property, but instead holds water if

possible. In addition, corn can tolerate a higher water table than citrus, so it is less necessary to remove water from the property than would be the case for citrus.

8. On March 14, 2018, Sunbreak Farms obtained Florida Department of Environmental Protection (“DEP”) Domestic Wastewater Facility Permit number FLA979830 (the “DEP Permit”) to operate a compost facility on 80.75 of its 6580 acres in St. Lucie and Indian River Counties¹. The DEP Permit is attached as Exhibit “A”.

9. The DEP Permit is for the production of up to 80,000 dry tons of compost meeting the standards of Class AA fertilizer under Florida law, using Class B biosolids from wastewater treatment combined with vegetative waste. The DEP Permit provides that the composting will be conducted alongside each of 40 farm fields across Sunbreak Farms’ property, such that each approximately 2-acre compost pile will serve an adjacent field. If Sunbreak Farms is unable to obtain sufficient biosolids in any given composting cycle, it will produce proportionately less compost, on proportionately less of its land.

10. The DEP Permit provides detailed standards for the composting and for the construction of the composting areas, which do not permit deviation without a modification of the DEP Permit.

11. Pursuant to Fla. Stat. s. 403.067, application of Class AA fertilizer in compliance with Best Management Practices developed by the Florida Department of Agriculture and Consumer Services (“BMPs”) is entitled to a statutory presumption of compliance with state water quality standards.

¹ Sunbreak Farms owns more than 6580 acres in this location. This number refers to farmed acreage, and excludes certain roads, a 640-acre reservoir, farm buildings and other lands not farmed.

12. Sunbreak Farms, LLC is enrolled in the BMP program, meets and exceeds BMPs in its farming activities, and is considered a model farm in this regard by the Florida Department of Agriculture and Consumer Services.

13. SFWMD was given an opportunity to provide input to DEP in that agency's review of Sunbreak Farms' application for the DEP Permit, and did so, recommending to DEP that it require berms to be constructed around each compost pile, to reduce and contain runoff from the composting piles ("Containment Berms"). DEP implemented this recommendation in the DEP Permit. Sunbreak Farms is unaware of any other recommendations from SFWMD in its consultation with DEP, whether or not implemented.

14. Construction of berms to contain or otherwise restrict the flow of water requires an Environmental Resource Permit ("ERP") pursuant to Fla. Stat. s. 373.413 and Ch. 373 generally.

15. Upon final issuance of the DEP Permit, Sunbreak Farms applied on or about June 13, 2018 to SFWMD to modify its ERP to construct the Containment Berms. Construction of the Containment Berms was the only change to the ERP requested by this application.

16. On July 13, 2018, SFWMD issued its first Request for Additional Information ("RAI"), to which Sunbreak Farms responded on August 13, 2018.

17. On September 14, 2018, SFWMD issued its second RAI, to which Sunbreak Farms responded on December 10, 2018.

18. On January 11, 2019, SFWMD issued its third RAI, to which Sunbreak Farms responded on April 5, 2019.

NOTICE OF AGENCY DECISION

19. On May 24, 2019, Sunbreak Farms received by email from an SFWMD representative a Notice of Proposed Agency Action to Deny the Application, which is attached at Exhibit “B”.

20. The justification given for the denial is as follows:

The applicant has not provided reasonable assurances that the project will not result in adverse impacts to water resources. The applicant did not provide the requested water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design of the stormwater management system will function properly as required by Section 4.9.3, Volume II of the Applicant's Handbook

RULES AND STATUTES REQUIRING REVERSAL

21. The Operating Agreement, the Environmental Resources Permit Handbook Vols. I and II, Ch. 62-330.301, F.A.C., Ch. 403, Fla. Stat., Ch. 373, Fla. Stat.

22. The authority for issuance of ERPs is set forth in Part IV, Fla. Stat. Ch. 373, and specifically Fla. Stat. s. 373.413, which provides that “*the governing board [of a water management district] or the department may require such permits and impose such reasonable conditions as are necessary to assure that the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works will comply with the provisions of this part and applicable rules promulgated thereto and will not be harmful to the water resources of the district.*”

23. Ch. 62-330.301, F.A.C., cited in the staff report that is part of the Notice of Proposed Agency Action to Deny the Application, requires that “*an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal or abandonment of the projects regulated under this chapter: [](e) Will not adversely affect the quality of receiving waters such that the state water quality standards set forth in chapters 62-4,*

62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated.”

[Emphasis added]

24. To divide and delineate responsibility for environmental permitting between SFWMD and DEP, the agencies entered into that certain “Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S. Between South Florida Water Management District and Department of Environmental Protection,” dated May 10, 2007 (the “Operating Agreement”). The Operating Agreement is incorporated by reference in Ch. 62-113, F.A.C. The Operating Agreement is attached as Exhibit “C”.

25. In the Environmental Resource Permit Applicant’s Handbook, Vol. 1 (General and Environmental), which governs issuance of ERPs for DEP and all water management districts², it notes the existence of all of the operating agreements between DEP and the districts, and says: *“These Agreements operate so that only one agency is responsible for permitting, compliance and enforcement of an activity, and identify which Agency is responsible for the various types of activities.”*

26. The Operating Agreement provides in pertinent part:

“The DEPARTMENT shall review and take final action on all applications for permits and petitions for variances, under Part IV, Chapter 373, F.S., and variances or waivers under Section 120.542, F.S. for the project types listed in a. through t. below. The permit applications encompassed within the DEPARTMENT’s responsibilities hereunder include those submitted for wetland resource (dredge and fill) permits and management and storage of surface water (MSSW) permits, pursuant to Subsection 373.414(11) through (16) F.S., as well as those submitted for environmental resource permits.

² Incorporated by reference in Rule 62-330.010(4), F.A.C.

* * * * *

c. Domestic or industrial wastewater treatment, storage, transmission, effluent disposal, or water reuse facilities that require a permit under Chapter 403, F.S. This includes all facilities and activities located at the domestic or industrial wastewater treatment facility; all reuse sites permitted under Parts II or IV of Chapter 62-610, F.A.C.; land application sites permitted under Part VI of Chapter 62.610, F.A.C.; and wetlands created using reclaimed water (from domestic wastewater or industrial wastewater sources). However, the DISTRICT shall review and take final action on permit applications for:

- (1) Water reuse sites permitted under Part III of Chapter 62-610, F.A.C., such as facilities for the storage and application of reclaimed water to irrigate crops, golf courses, or other landscapes;*
- (2) Activities involving the application of reclaimed water to rehydrate wetlands or to provide artificial recharge to reduce or mitigate drawdown impacts due to well withdrawals;*
- (3) Those facilities that are subject to any of the requirements of Chapter 40E-4, 40E-40, 40E-41, F.A.C. through a system or activity which is not fully contained on the domestic or industrial wastewater facility site, but which is part of a larger project for which the DEPARTMENT does not review and take final action on permit applications under any paragraph in Section II.A.1. of this agreement.”[Emphasis added]*

27. The DEP Permit provides the location and dimensions of the Containment Berms are part of the composting facility:

“Perimeter berms shall be formed around the composting areas prior to construction of windrows. The berms will be a minimum of 24” in height and will provide 100% containment of the 100-year, 3-day storm event over a typical compost area. No discharge from the compost areas to either the fields or the perimeter ditches will occur.” [] “The compost areas will be bermed on all four sides.” [Emphasis added]

28. The DEP Permit also provides: *“The compost product will replace other fertilizer that is faster leaching from the sites. The net effect will be reduction in fertilizer use and reduced discharge of nutrients to the area canals.”*

29. The DEP Permit further provides: *“This facility does not discharge to surface waters. South Florida Water Management District has issued Stormwater Permit 56-00111-S.”*

30. The form monitoring report included as part of the DEP Permit provides for water quality monitoring, and the form of the DEP Permit includes a “Section III Ground Water Requirements.” Under that heading, the DEP Permit provides: “Section III is not applicable to this facility.” DEP had the opportunity, within the scope of its authority under the Operating Agreement, to require groundwater monitoring, but did not. Further, the Fact Sheet for the DEP Permit, under “Ground Water Monitoring Requirements,” states: “This section is not applicable to this facility.”

31. In RAI #2, SFWMD asked: *“Please provide a water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design for the drainage system will function properly. The plan should also provide reasonable assurance that stormwater discharges from the composting cells will not result in adverse impacts to water resources. Surface and ground water sampling should be included and specifically described in the plan. The monitoring plan should include an explanation of how the proposed program will achieve valid measurements of flow, bacteria, nitrogen, phosphorus, and dissolved oxygen concentration; description of monitoring sites; sample collection methods, technique, preservation, identification and schedules; description of laboratory analyses, reporting delivery and data review; and other items as necessary to determine if the pollution abatement practices incorporated into the design are functioning properly and will prevent water quality degradation. [Section 4.9.3, Vol. II]”*[Emphasis added]³

32. In its response to RAI #2, counsel for Sunbreak Farms raised the foregoing issues.

³ Environmental Resource Permit Applicant’s Handbook Vol. II is incorporated by reference in Rule 40E-4.091(1)(a) and Rule 62-330.010, F.A.C.

33. Further, the foregoing response noted that representatives of SFWMD had assured the applicant that the concerns of SFWMD involved only the activities conducted by Sunbreak Farms pursuant to the DEP Permit, not the application of Class AA fertilizer pursuant to BMPs, so Sunbreak Farms' response only addressed issues relating to the composting activities.

34. In RAI #3, SFWMD asked for an alternative to water quality sampling that would give SFWMD "adequate assurances" that the "pollution abatement practices proposed in the design are functioning properly and meet the objectives of Section 4.9.3, Vol. II."

35. The "pollution abatement practices proposed in the design" which SFWMD refers to are those required by the DEP Permit, which were analyzed and approved by DEP, and which cannot be deviated from without a modification of the DEP Permit. They are part and parcel of the wastewater treatment facility which is the subject of the DEP Permit.

36. Conducting its farming practices consistently with BMPs entitles Sunbreak Farms to a statutory entitlement to a presumption of compliance under Florida Statutes for activities outside the scope of the DEP Permit. Sunbreak Farms is not aware of any allegation that it does not conduct its operations in compliance with applicable BMPs.

37. Section 4.9, Vol. II of the Environmental Resource Permit Applicant's Handbook provides:

4.9 Water Quality Monitoring

All new drainage projects will be evaluated based on the ability of the system to prevent degradation of receiving waters and the ability to conform to State water quality standards.[Emphasis added]

* * * * *

4.9.3 *There are two reasons for requiring water quality monitoring by permittees, as follows:*

(a) Such data can be used to determine if the pollution abatement practices incorporated into the design for the drainage system are functioning properly.

(b) In some cases there may be a real and immediate concern regarding degradation of quality in the receiving waters, regardless of the apparent pollutant removal efficiency of the drainage system.

38. The modification sought by Sunbreak Farms to its ERP is not a new drainage project. The Containment Berms are in fact the opposite of new drainage; they are new impoundments of stormwater as part of a drainage system which has been in place for over a half-century. They were mandated by DEP at the recommendation of SFWMD pursuant to design criteria set forth in a DEP Permit issued under DEP's exclusive jurisdiction over wastewater treatment.

39. By attempting to require monitoring above and beyond that required by DEP under a wastewater treatment permit, SFWMD is attempting to impose additional requirements upon an activity over which DEP has exclusive authority.

40. By attempting to require water quality monitoring, SFWMD is disregarding Florida's statutory presumption of compliance for farming activities conducted in accordance with BMPs.

41. In both cases, SFWMD is disregarding the findings of DEP as set forth in the DEP Permit.

EFFECT ON THE SUBSTANTIAL INTERESTS OF SUNBREAK FARMS

42. Sunbreak Farms is the applicant in the permit modification at issue. It has expended significant time, money and effort in obtaining the DEP Permit, and over 15 months later is unable to benefit from operating under that permit. Class AA compost, as compared to commercial chemical fertilizers, is superior in many ways. As a soil enhancement, compost becomes part and parcel of the soil, rather than sitting atop the soil. As such, it is more likely to remain in place and be taken up by the crop, and less likely to be washed away in rainfall. Compost is taken up more slowly and consistently by the crop, and over time reduces the overall

demand for nutrient additives. It also helps soil to absorb and hold moisture in place. Sunbreak has accepted tons of tree and yard waste from recent hurricanes in anticipation of implementing its composting plan under the DEP Permit, but has been unable to do during the pendency of the Application, and now this challenge to its denial. Class AA composting as contemplated by the DEP Permit is significantly less expensive in the long term than the fertilizers currently being applied by Sunbreak. Finally, using composted biosolids in the production of agricultural products is widely considered an environmental and social benefit, and superior to the alternative methods of disposal of biosolids, namely direct land application of Class B biosolids, incineration and depositing them in municipal landfills. Sunbreak Farms' location is ideally constructed and located for use of biosolids composting. Sunbreak Farms is particularly and specifically aggrieved and adversely affected by SFWMD's proposed denial of the Application, for which Sunbreak Farms has demonstrated entitlement. Without the modification to the ERP sought by the Application, Sunbreak Farms is prevented from engaging in the activities contemplated by the DEP Permit.

DISPUTED ISSUES OF MATERIAL FACT

43. Whether Sunbreak Farms provided adequate assurances to SFWMD that the Containment Berms requested in the Application would not create adverse effects.

44. Whether the project being reviewed by SFWMD was the Containment Berms contemplated by the Application, or the wastewater facility permitted by the DEP Permit.

45. Whether Section 4.9 generally, and Section 4.9.3 specifically, of the Environmental Resource Permit Applicant's Handbook Vol. II, apply to the Application.

46. Whether the Application otherwise satisfies the applicable statutory and rule criteria entitling it to the modification which the Application requests.

ULTIMATE FACTS WARRANTING REVERSAL

47. Sunbreak Farms' composting activities were reviewed and analyzed by DEP, which made specific findings as set forth in the DEP Permit. These include that the facility does not discharge to surface waters, that the use of Class AA compost will lead to both a reduction in the use of nutrients at the permitted property and a reduction in nutrient discharge from the property.

48. The design of the facility is dictated by the DEP Permit, based on DEP review of the application of Sunbreak Farms, and its own expertise in the area of wastewater treatment generally and composting specifically. Sunbreak Farms is not at liberty to deviate from the design as dictated by the DEP Permit.

49. SFWMD refused to recognize the findings of DEP as set forth in the DEP Permit, and accept them as reasonable assurances that water quality standards will be met.

50. SFWMD disregarded the presumption of compliance granted under Florida Statutes to agricultural operations implementing BMPs, in requiring further assurances regarding use of Class AA fertilizer.

51. SFWMD disregarded the Operating Agreement and the Applicant's Handbook in attempting to apply additional performance and monitoring requirements to an activity permitted by DEP, and exclusively within the authority of DEP.

52. SFWMD misconstrued Sec. 4.9 of the Environmental Resource Permit Applicant's Handbook, Vol. II by attempting to apply monitoring criteria for new drainage projects to a modification which sought only to impound water, in the manner required by the DEP Permit, at the recommendation of SFWMD.

53. The Application satisfied the applicable statutory and rule criteria, such that Sunbreak Farms is entitled to be issued the modification for which it applied.

RELIEF SOUGHT BY PETITIONER

54. Sunbreak Farms requests SFWMD to forward this Petition to the Division of Administrative Hearings for assignment to an Administrative Law Judge, and following a formal evidentiary administrative proceeding, requests a final order granting the Permit modification requested by the Application, and such other relief as may be deemed appropriate..

Respectfully submitted this 11th day of June, 2019.

DEAN, MEAD, & DUNBAR

By: /s/ John L. Wharton

John L. Wharton

Dennis G. Corrick

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Tallahassee FL

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Secondary: hshack@deanmead.com

Attorneys for Petitioner

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed by electronic mail with South Florida Management District, c/o Office of the District Clerk (Clerk@SFWMD.gov), 3301 Gun Club Road, West Palm Beach, FL 33406, with copies served electronically to SFWMD c/o Susan Roeder Martin, South Florida Water Management District (SMartin@SFWMD.gov, Litigation@SFWMD.gov), 3301 Gun Club Road, West Palm Beach, FL 33406, on this 11th day of June 2019, and that the original physically signed document will be

retained for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in this cause and that Petition shall produce it upon the request of other parties.

By: /s/ John L. Wharton

John L. Wharton

Exhibit "A"



Florida Department of Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

March 14, 2018

In the Matter of an
Application for Permit by:

Sunbreak Farms, LLC
Patrick B. Cheney
5101 Minute Maid Rd.
Fort Pierce, Florida 34945-4351
Email: pbcheney@colvin-co.com

File Number FLA979830-001-DW1S
St. Lucie and Indian River Counties
Sunbreak Farms Compost Facility

Enclosed is Permit Number FLA979830 to construct and operate the Sunbreak Farms, issued under Chapter 403, Florida Statutes.

Monitoring requirements under this permit are effective on the first day of the second month following the effective date of the permit. Until such time, the permittee shall continue to monitor and report in accordance with previously effective permit requirements, if any.

Any party to this order (permit) has the right to seek judicial review of the permit action under Section 120.68, Florida Statutes, by the filing of a notice of appeal under Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection, Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when this document is filed with the Clerk of the Department.

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

A handwritten signature in blue ink that reads "Jennifer K. Smith".

March 14, 2018

Jennifer K. Smith
Southeast District Director
Department of Environmental Protection
3301 Gun Club Road
MSC 7210-1
West Palm Beach, FL 33406

Date

FILING AND ACKNOWLEDGMENT

FILED, on this date, under Section 120.52, Florida Statutes, with the designated Deputy Clerk, receipt of which is hereby acknowledged.

Mandakini Patel

Clerk

March 14, 2018

Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this INTENT TO ISSUE and all copies were mailed before the close of business on March 14, 2018, to the listed persons.

Mandakini Patel

Name

March 14, 2018

Date

Enclosure

Certified copies furnished to:

Jeff Christian, DEP/SED, Jeff.Christian@dep.state.fl.us
Michael Bechtold, DEP/SED, Mike.Bechtold@dep.state.fl.us
Maurice Barker, DEP/TLH, Maurice.Barker@dep.state.fl.us
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Florida Department of Environmental Protection

Southeast District Office
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West Palm Beach, FL 33406
561-681-6600

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

STATE OF FLORIDA DOMESTIC WASTEWATER FACILITY PERMIT

PERMITTEE: Sunbreak Farms, LLC

Authorized Representative:

Patrick B. Cheney
5101 Minute Maid Rd.
Fort Pierce, Florida 34945-4351
Email: pbcheney@colvin-co.com

PERMIT NUMBER: FLA979830

FILE NUMBER: FLA979830-001-DWIS

ISSUANCE DATE: March 14, 2018

EFFECTIVE DATE: March 14, 2018

DMR MONITORING START DATE: When a composting site
is in operation.

EXPIRATION DATE: March 13, 2023

FACILITY:

Sunbreak Farms, LLC
5101 Minute Maid Road
Fort Pierce, FL 34945
St. Lucie and Indian River Counties
Latitude: 27° 31 ' 28.05" North Longitude: 80° 32' 50.96 West

This permit is issued under the provisions of Chapter 403, Florida Statutes (F.S.), and applicable rules of the Florida Administrative Code (F.A.C.). This permit does not constitute authorization to discharge wastewater other than as expressly stated in this permit. The above-named permittee is hereby authorized to construct and operate the facilities in accordance with the documents attached hereto and specifically described as follows:

BIOSOLIDS TREATMENT FACILITY:

A new, Type I Biosolids Management Facility with a permitted Class AA compost production of approximately 80,000 dry tons per year. Sunbreak Farms will utilize the Modified Static Aerated Pile (MSAP) method to achieve the required compost treatment of biosolids as approved by EPA. The MSAP method has been approved as a method modification by EPA Region 9 (July 1, 2003), and its use has also been allowed by EPA Regions 4 and 8 as an alternative Process to Further Remove Pathogens (PFRP). Biosolids will be blended at the facility with bulking agents that primarily consist of chipped yard trash debris and other green waste and mixed at a ratio of 3-to-1 (green waste to biosolids). They may include other organic wastes like chicken manure and other animal wastes mixed with the biosolids. Composting of these other wastes without mixing with biosolids can be under a solid waste compost permit at the option of the Permittee. Prior to placing blended biosolids in the management area a 50:50 blend of ground yard trash and screened compost from screening during post-processing, shall be used to create a 12-inch base layer upon which active composting will be placed. The blended biosolids will be placed into windrows constructed to dimensions that are approximately 16 feet wide and 8 feet tall. Once each windrow or

windrow section is complete Sunbreak Farms staff shall apply a 12-inch layer of bulking agent over the top and sides of the windrow.. Pathogen reduction standards for Class AA compost will be achieved by maintaining a minimum temperature of 131degrees F (55 degrees C) in each windrow for a minimum period of 15 consecutive days. Vector attraction reduction of Class AA compost will be achieved by maintaining aerobic composting with a temperature greater than 104 degrees F (40 degrees C) for 14 days or longer after the Pathogens period of 15 days. Once Sunbreak Farms has confirmed the compost product meets all permitted criteria for a Class AA fertilizer it will be distributed and marketed as fertilizer with a Florida Department of Agriculture and Consumer Services (FDAC) issued fertilizer license.

IN ACCORDANCE WITH: The limitations, monitoring requirements, and other conditions set forth in this cover sheet and Part I through Part IX on pages 1 through 14 of this permit.

I. REPORTING AND MONITORING REQUIREMENTS

A. Limitations and Monitoring and Reporting Requirement

1. The permittee shall provide safe access points for obtaining representative samples which are required by this permit. [62-600.650(2)]
2. Monitoring requirements under this permit are effective on the first day of the second month following the effective date of the permit. Until such time, the permittee shall continue to monitor and report in accordance with previously effective permit requirements, if any. During the period of operation authorized by this permit, the permittee shall complete and submit to the Department Discharge Monitoring Reports (DMRs) in accordance with the frequencies specified by the REPORT type (i.e. monthly, quarterly, semiannual, annual, etc.) indicated on the DMR forms attached to this permit. Unless specified otherwise in this permit, monitoring results for each monitoring period shall be submitted in accordance with the associated DMR due dates below. DMRs shall be submitted for each required monitoring period including periods of no discharge.

REPORT Type on DMR	Monitoring Period	Submit by
Monthly	first day of month - last day of month	28 th day of following month
Quarterly	January 1 - March 31 April 1 - June 30 July 1 - September 30 October 1 - December 31	April 28 July 28 October 28 January 28
Semiannual	January 1 - June 30 July 1 - December 31	July 28 January 28
Annual	January 1 - December 31	January 28

The permittee may submit either paper or electronic DMR forms. If submitting electronic DMR forms, the permittee shall use the electronic DMR system approved by the Department (EzDMR) and shall electronically submit the completed DMR forms using the DEP Business Portal at <http://www.fldepportal.com/go/>. Reports shall be submitted to the Department by the twenty-eighth (28th) of the month following the month of operation. Data submitted in electronic format is equivalent to data submitted on signed and certified paper DMR forms.

If submitting paper DMR forms, the permittee shall make copies of the attached DMR forms, without altering the original format or content unless approved by the Department, and shall mail the completed DMR forms to the Department's Southeast District Office at the address specified in Permit Condition I.A. 3. by the twenty-eighth (28th) of the month following the month of operation.
[62-620.610(18)][62-600.680(1)]

3. Unless specified otherwise in this permit, all reports and other information required by this permit, including 24-hour notifications, shall be submitted to or reported to, as appropriate, the Department's Southeast District Office at the address specified below:
Florida Department of Environmental Protection

Southeast District
 3301 Gun Club Road, MSC 7210-1
 West Palm Beach, Florida 33406-3007 Phone Number - (561)681-6600
 [62-620.305]

4. All reports and other information shall be signed in accordance with the requirements of Rule 62-620.305, F.A.C. [62-620 305]

II. BIOSOLIDS MANAGEMENT REQUIREMENTS

A. Basic Requirements

1. Class AA Biosolids Compost generated by this facility may be distributed and marketed or disposed of in a Class I solid waste landfill. [62-620.320(6), 62-640.880(1)]
2. The permittee shall monitor and keep records of the quantities of biosolids generated, received from source facilities, treated, distributed and marketed, land applied, used as a biofuel or for bioenergy, transferred to another facility, or landfilled. These records shall be kept for a minimum of five years. [62-640.650(4)(a)]
3. Biosolids quantities shall be monitored for each composting site by the permittee as specified below. Monitoring results of all compost sites distributed and marketed that month shall be reported on the permittee's Discharge Monitoring Report for Monitoring Group RMP-Q in accordance with Condition I.A.3.

Parameter	Units	Max/ Min	Biosolids Limitations		Monitoring Requirements		
			Limit	Statistical Basis	Frequency of Analysis	Sample Type	Monitoring Site Number
Biosolids Quantity (Distributed & Marketed in FL)	ton (d)	Max	Report	Monthly Total	Monthly	Calculated	RMP-01
Biosolids Quantity (Distributed & Marketed outside FL)	ton (d)	Max	Report	Monthly Total	Monthly	Calculated	RMP-02
Biosolids Quantity (Landfilled)	ton (d)	Max	Report	Monthly Total	Monthly	Calculated	RMP-03
Biosolids Quantity (Received)	ton (d)	Max	Report	Monthly Total	Monthly	Calculated	RMP-04

[62-640.650(5)(a)1]

4. Biosolids quantities shall be calculated as listed in Permit Condition II.3. and as described below:

Monitoring Site Number	Description of Monitoring Site Calculations
RMP-01	See Specific Condition II. A. 5.
RMP-02	See Specific Condition II. A. 5.
RMP-03	See Specific Condition II. A. 5.
RMP-04	See Specific Condition II. A. 5.

The following are the approved Monitoring Site Calculations:

- Dry tons = gallons of biosolids x 8.34 lbs./gallon x ton/2000 lbs. x percent solids/100
 - Dry tons = cubic yards (wet) of biosolids x bulk density of biosolids/cubic yard x ton/2000 lbs. x percent solids/100
 - Dry tons = wet tons x percent solids/100
 - If a biosolids analysis is not available then the percent total solids can be estimated using 1.75 % total solids for liquid biosolids and 17.75 % total solids for dewatered "cake".
 - Percent solids will be obtained from the annual biosolids analysis required by the permit. The gallons are the total transferred to another facility, used as a biofuel/for bioenergy or landfilled. As a guide, a typical load of liquid biosolids removed by truck is usually 6,000 gallons.
5. The treatment, management, transportation, use, land application, or disposal of biosolids shall not cause a violation of the odor prohibition in subsection 62-296.320(2), F.A.C. [62-640.400(6)]
 6. Storage of biosolids or other solids at this facility shall be limited to 15 days unless the Permittee submits and receive approval of the Facility Biosolids Storage Plan. Afterwards, storage of biosolids or other solids at this facility shall be in accordance with the Facility Biosolids Storage Plan. [62-640.300(4)]
 7. Biosolids shall not be spilled from or tracked off the treatment facility site by the hauling vehicle. [62-640.400(9)]

B. Treatment and Monitoring Requirements

1. The permittee is authorized to produce Class AA biosolids.
2. The permittee shall achieve Class A pathogen reduction by meeting the pathogen reduction requirements in section 503.32(a)(7) (Use of PFRP (Processes to Further Reduce Pathogens - Composting – Temperatures are monitored on a daily basis at depths of 10", 20", 30", and 40" at every 100' along pile or another method as approved in the operating protocol. Temperatures are greater than 131 degrees F at all locations in the pile for a minimum of 15 days.) of Title 40 CFR Part 503. [62-640.600(1)(a)]
3. The permittee shall achieve vector attraction reduction for Class A or B biosolids by meeting the vector attraction reduction requirements in section 503.33(b)(5) (Use aerobic processes at greater than 40°C (average temperatures 45°C) for an additional 14 days or longer after completion of pathogens reduction (e.g., during biosolids composting) of Title 40 CFR Part 503. [62-640.600(2)(a)]
4. The time and temperature shall be routinely monitored to demonstrate compliance with pathogen reduction requirements specified in Rule 62-640.600, F.A.C. [62-640.650(3)(a)2]
5. The time and temperature shall be routinely monitored to demonstrate compliance with vector attraction reduction requirements specified in Rule 62-640.600, F.A.C. [62-640.650(3)(a)2]
6. Treatment of liquid biosolids or septage for the purpose of meeting the pathogen reduction or vector attraction reduction requirements set forth in Rule 62-640.600, F.A.C., shall not be conducted in the tank of a hauling vehicle. Treatment of biosolids or septage for the purpose of meeting pathogen reduction or vector attraction reduction requirements shall take place at the permitted facility. [62-640.400(7)]

7. Class AA biosolids shall comply with the limits and be monitored by the permittee as specified below. Results shall be reported on the permittee's Discharge Monitoring Report in accordance with Permit Condition I.A.3. Biosolids shall not be distributed and marketed or land applied if a single sample result or the monthly average of sample results for any parameter exceeds the following Class AA parameter concentrations:

Parameter	Units	Max/ Min	Biosolids Limitations		Monitoring Requirements		
			Limit	Statistical Basis	Frequency of Analysis	Sample Type	Monitoring Site Number
Nitrogen, Sludge, Total, Dry Weight (as N)	percent	Max	Report	Monthly Average	Monthly	Composite	RMP-AA
Phosphorus, Sludge, Total, Dry Weight (as P)	percent	Max	Report	Monthly Average	Monthly	Composite	RMP-AA
Potassium, Sludge, Total, Dry Weight (as K)	percent	Max	Report	Monthly Average	Monthly	Composite	RMP-AA
Arsenic Total, Dry Weight, Sludge	mg/kg	Max Max	41.0 75.0	Monthly Average Single Sample	Monthly	Composite	RMP-AA
Cadmium, Sludge, Total, Dry Weight (as Cd)	mg/kg	Max Max	39.0 85.0	Monthly Average Single Sample	Monthly	Composite	RMP-AA
Copper, Sludge, Total, Dry Weight. (as Cu)	mg/kg	Max Max	1500.0 4300.0	Monthly Average Single Sample	Monthly	Composite	RMP-AA
Lead, Dry Weight, Sludge	mg/kg	Max Max	300.0 840.0	Monthly Average Single Sample	Monthly	Composite	RMP-AA
Mercury, Dry Weight, Sludge	mg/kg	Max Max	17.0 57.0	Monthly Average Single Sample	Monthly	Composite	RMP-AA
Molybdenum, Dry Weight, Sludge	mg/kg	Max	75.0	Single Sample	Monthly	Composite	RMP-AA
Nickel, Dry Weight, Sludge	mg/kg	Max Max	420.0 420.0	Monthly Average Single Sample	Monthly	Composite	RMP-AA
Selenium Sludge Solid	mg/kg	Max Max	100.0 100.0	Monthly Average Single Sample	Monthly	Composite	RMP-AA
Zinc, Dry Weight, Sludge	mg/kg	Max Max	2800.0 7500.0	Monthly Average Single Sample	Monthly	Composite	RMP-AA
pH	s.u.	Max	Report	Single Sample	Monthly	Grab	RMP-AA
Solids, Total, Sludge, Percent	percent	Max Max	Report Report	Monthly Average Single Sample	Monthly	Composite	RMP-AA
Coliform, Fecal	MPN/g	Max	1000.0	Single Sample	Monthly	Grab	RMP-AA
Salmonella Sludge	MPN/4g	Max	3.0	Single Sample	Monthly	Grab	RMP-AA

*Either the fecal coliform limit or Salmonella sp. limit must be met.

**Note, monthly averages of parameter concentrations shall be determined by taking the arithmetic mean of all sample results for the month. [62-640.650(3)(a)(3), 62-640.700(5)(a), 62-640.700(5)(b) and 62-640.850(4)]

8. Class AA biosolids that are stored for more than 45 days shall be re-sampled for fecal coliform or Salmonella sp. every Month until removed from the storage pads. [62-640.650(3)(a)5]
8. Sampling and analysis shall be conducted in accordance with 40 CFR Part 503.8 and the U.S. Environmental Protection Agency publication - POTW Sludge Sampling and Analysis Guidance Document, August 1989. In cases where conflicts exist between 40 CFR 503.8 and the POTW Sludge Sampling and Analysis Guidance Document, the requirements in 40 CFR Part 503.8 will apply. [62-640.650(3)(a)1]
9. All samples shall be representative and shall be taken after final treatment of the biosolids but before land application or distribution and marketing. [62-640.650(3)(a)5]

10. Biosolids samples shall be taken at the composting site locations listed in II. B. 7. and as described below:

Monitoring Site Number	Description of Monitoring Site
RMP-AA	Class AA Biosolids Monthly Samples composite representative sample of the compost piles after completion of Pathogens Reduction and Vector Attraction Reduction has been completed

C. Distribution and Marketing

1. Biosolids or biosolids products may be distributed and marketed only if the biosolids or biosolids products meet Class AA standards and are either sold or given-away under a Florida fertilizer license or distributed and marketed to a person or entity that will sell or give-away the biosolids or biosolids products under Florida fertilizer license. Biosolids composts that are enrolled and certified under the U.S. Composting Council's Seal of Testing Assurance (USCC STA) program do not have to be sold or given-away under a Florida fertilizer license except if distributed and marketed within the Lake Okeechobee, St. Lucie River, and Caloosahatchee River watersheds. [62-640.850]
2. Within 24 hours of discovering that distributed and marketed biosolids did not meet the Class AA standards, the permittee shall notify the Department and all persons to whom they delivered or distributed and marketed the Class AA biosolids. [62-640.650(6)(g)]
3. The permittee shall make the following information available to users by product labels or other means:
 - a. The fertilizer label required by Florida fertilizer law or the equivalent information required by the USCC STA program;
 - b. The name and address of the facility or person that produced the Class AA biosolids;
 - c. A statement that the biosolids or biosolids product meets the criteria of subsection 62-640.700(5), F.A.C.;
 - d. Recommendation that biosolids be applied at a rate that does not exceed crop or plant nutrient needs and;
 - e. Recommendations on proper storage of the biosolids or biosolids product prior to use. For distributed quantities of biosolids or biosolids products greater than one dry ton, the recommendations shall include that biosolids may not be stored on property for more than seven days unless stored to prevent runoff of biosolids or stormwater that has been in contact with biosolids, violation of the odor prohibition in subsection 62-296.320(2), F.A.C., and vector attraction.

[62-640.850(5)]

D. Disposal

1. Disposal of biosolids, septage, and "other solids" in a solid waste disposal facility, or disposal by placement on land for purposes other than soil conditioning or fertilization, such as at a monofill, surface impoundment, waste pile, or dedicated site, shall be in accordance with Chapter 62-701, F.A.C. [62-640.100(6)(b) & (c)]

E. Receipt

1. The permittee shall enter into a written agreement with each source facility that it intends to receive biosolids from. The agreement shall address the quality and quantity of the biosolids accepted by the permittee. The agreement shall include a statement, signed by the permittee, as to the availability of sufficient permitted capacity to receive the biosolids from the source facility, and indicating that the permittee will continue to operate in compliance with the requirements of its permit. The agreement

shall also address responsibility during transport of biosolids between the facilities. The permittee shall submit a copy of this agreement to the Department's Southeast District Office at least 30 days before transporting biosolids from the source facility to the permittee. [62-640.880(1)(c)]

III. GROUND WATER REQUIREMENTS

1. Section III is not applicable to this facility.

IV. ADDITIONAL REUSE AND LAND APPLICATION REQUIREMENTS

1. Section IV is not applicable to this facility.

V. OPERATION AND MAINTENANCE REQUIREMENTS

A. Staffing Requirements

1. During the period of operation authorized by this permit, the wastewater facilities shall be operated under the supervision of one or more operators certified in accordance with Chapter 62-602, F.A.C. In accordance with Chapter 62-699, F.A.C., this facility is a Type I Biosolids Treatment Facility and, at a minimum, operators with appropriate certification must be on the site as follows:

The level of operator staffing at a biosolids treatment facility shall be Class A Operator for 8 hours/day for 5 days/week.

2. An alternative to the above staffing is as follows:

A Certified Compost Program Manager certified by the Solid Waste Association of North America (SWANA), in partnership with the U.S. Composting Council's Professional Credentials Committee or a Florida Professional Engineer. A lead/chief operator shall be present at the facility at least 8 hours per week. 62-640.880(2)(j)4.

A lead operator assistant under the direct supervision of the lead/chief operator shall be present at the facility 8 hours/day for 5 days/week. If the lead/chief operator is present more than 8 hours per week, the lead/chief operator can substitute for the lead operator assistant coverage on an hour for hour basis for hours over the minimum 8 hours per week. The lead/chief operator and the lead operator assistant shall work together at the plant for at least 8 hours per week unless the lead/chief operator works more than 8 hours/day for 5 days/week. 62-640.880(2)(j)4.

3. A lead/chief operator or a Florida Professional Engineer (P.E) shall be available during all periods of plant operation. "Available" means able to be contacted as needed to initiate the appropriate action in a timely manner. Due to the nature of the composting operations, seldom will a lead/chief operator or P.E. be needed outside normal work schedules. [62-699.311(10), (6) and (1)]

B. Capacity Analysis Report and Operation and Maintenance Performance Report Requirements

1. The application to renew this permit shall include a detailed operation and maintenance performance report prepared in accordance with Rule 62-600.735, F.A.C. [62-600.735(1)]

C. Recordkeeping Requirements

1. The permittee shall maintain the following records and make them available for inspection on the site of the permitted facility.
 - a. Records of all compliance monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, including, if applicable, a copy of the laboratory certification showing the certification number of the laboratory, for at least three years from the date the sample or measurement was taken;

- b. Copies of all reports required by the permit for at least three years from the date the report was prepared;
- c. Records of all data, including reports and documents, used to complete the application for the permit for at least three years from the date the application was filed;
- d. Monitoring information, including a copy of the laboratory certification showing the laboratory certification number, related to the residuals use and disposal activities for the time period set forth in Chapter 62-640, F.A.C., for at least three years from the date of sampling or measurement;
- e. A copy of the current permit;
- f. A copy of the current operation and maintenance manual as required by Chapter 62-600, F.A.C.;
- g. A copy of any required record drawings;
- h. Copies of the licenses of the current certified operators;
- i. Copies of the logs and schedules showing plant operations and equipment maintenance for three years from the date of the logs or schedules. The logs shall, at a minimum, include identification of the plant; the signature and license number of the operator(s) and the signature of the person(s) making any entries; date and time in and out; specific operation and maintenance activities, including any preventive maintenance or repairs made or requested; results of tests performed and samples taken, unless documented on a laboratory sheet; and notation of any notification or reporting completed in accordance with Rule 62-602.650(3), F.A.C. The logs shall be maintained on-site in a location accessible to 24-hour inspection, protected from weather damage, and current to the last operation and maintenance performed; and
- j. Records of biosolids quantities, treatment, monitoring, and hauling for at least five years.

[62-620.350, 62-602.650, 62-640.650(4)]

VI. SCHEDULES

1. The following self-improvement actions (the following schedule is not a compliance schedule) are planned by the Permittee according to the following schedule:

Improvement Action	Completion Date
1. Completion construction of composting facility	July 1, 2020

2. Prior to placing the new facilities into operation or any individual unit processes into operation, for any purpose other than testing for leaks and equipment operation, the Permittee shall complete and submit to the Department DEP Form 62-620.910(12), Notification of Completion of Construction for Wastewater Facilities or Activities. The project calls for a number of pads to be used for the composting operation and the retention basin for stormwater treatment. Each pad and respective retention basin should be certified complete. This may include multiple partial certification. After all the planned basins and retention basins are certified, the Permittee shall indicate this is a final certification. [62-620.410(7)]
3. Within six months after a facility is placed in operation, the permittee shall provide written certification to the Department on Form 62-620.910(13) that record drawings pursuant to Chapter 62-620, F.A.C., and that an operation and maintenance manual pursuant to Chapters 62-600 and 62-610, F.A.C., as applicable, are available at the location specified on the form. This will include partial certifications.. [62-620.410(6) and 62-620.630(7)]
4. The permittee is not authorized to produce distribute and market composted biosolids after the expiration date of this permit, unless:
 - a. The permittee has applied for renewal of this permit at least 180 days before the expiration date of this permit using the appropriate forms listed in Rule 62-620.910, F.A.C., and in the manner established in the Department of Environmental Protection Guide to Permitting Wastewater

Facilities or Activities Under Chapter 62-620, F.A.C., including submittal of the appropriate processing fee set forth in Rule 62-4.050, F.A.C.; or

- b. The permittee has made complete the application for renewal of this permit before the permit expiration date.

[62-620.335(1) - (4)]

VII. INDUSTRIAL PRETREATMENT PROGRAM REQUIREMENTS

This facility is not required to have a pretreatment program. *[62-625.500]*

VIII. OTHER SPECIFIC CONDITIONS

1. In the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affects neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modifications of the permitted facilities) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the Department. Additionally, the treatment, management, use or land application of residuals shall not cause a violation of the odor prohibition in Rule 62-296.320(2), F.A.C. *[62-600.410(5) and 62-640.400(6)]*
2. The permittee shall provide verbal notice to the Department's Southeast District Office as soon as practical after discovery of a sinkhole or other karst feature within an area for the management or application of wastewater, wastewater residuals (sludges), or reclaimed water. The permittee shall immediately implement measures appropriate to control the entry of contaminants, and shall detail these measures to the Department's Southeast District Office in a written report within 7 days of the sinkhole discovery. *[62-620.320(6)]*

IX. GENERAL CONDITIONS

1. The terms, conditions, requirements, limitations, and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, Florida Statutes. Any permit noncompliance constitutes a violation of Chapter 403, Florida Statutes, and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. *[62-620.610(1)]*
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviations from the approved drawings, exhibits, specifications, or conditions of this permit constitutes grounds for revocation and enforcement action by the Department. *[62-620.610(2)]*
3. As provided in subsection 403.087(7), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the Total project which are not addressed in this permit. *[62-620.610(3)]*
4. This permit conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title. *[62-620.610(4)]*
5. This permit does not relieve the permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the permittee to cause pollution in contravention of Florida Statutes

and Department rules, unless specifically authorized by an order from the Department. The permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or biosolids use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. [62-620.610(5)]

6. If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee shall apply for and obtain a new permit. [62-620.610(6)]
7. The permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. [62-620.610(7)]
8. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. [62-620.610(8)]
9. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, including an authorized representative of the Department and authorized EPA personnel, when applicable, upon presentation of credentials or other documents as may be required by law, and at reasonable times, depending upon the nature of the concern being investigated, to:
 - a. Enter upon the permittee's premises where a regulated facility, system, or activity is located or conducted, or where records shall be kept under the conditions of this permit;
 - b. Have access to and copy any records that shall be kept under the conditions of this permit;
 - c. Inspect the facilities, equipment, practices, or operations regulated or required under this permit; and
 - d. Sample or monitor any substances or parameters at any location necessary to assure compliance with this permit or Department rules.

[62-620.610(9)]

10. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except as such use is proscribed by Section 403.111, F.S., or Rule 62-620.302, F.A.C. Such evidence shall only be used to the extent that it is consistent with the Florida Rules of Civil Procedure and applicable evidentiary rules. [62-620.610(10)]
11. When requested by the Department, the permittee shall within a reasonable time provide any information required by law which is needed to determine whether there is cause for revising, revoking and reissuing, or terminating this permit, or to determine compliance with the permit. The permittee shall also provide to the Department upon request copies of records required by this permit to be kept. If the permittee becomes aware of relevant facts that were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be promptly submitted or corrections promptly reported to the Department. [62-620.610(11)]
12. Unless specifically stated otherwise in Department rules, the permittee, in accepting this permit, agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, F.A.C., shall include a

reasonable time to obtain or be denied a mixing zone for the new or amended standard. [62-620.610(12)]

13. The permittee, in accepting this permit, agrees to pay the applicable regulatory program and surveillance fee in accordance with Rule 62-4.052, F.A.C. [62-620.610(13)]
14. This permit is transferable only upon Department approval in accordance with Rule 62-620.340, F.A.C. The permittee shall be liable for any noncompliance of the permitted activity until the transfer is approved by the Department. [62-620.610(14)]
15. The permittee shall give the Department written notice at least 60 days before inactivation or abandonment of a wastewater facility or activity and shall specify what steps will be taken to safeguard public health and safety during and following inactivation or abandonment. [62-620.610(15)]
16. The permittee shall apply for a revision to the Department permit in accordance with Rules 62-620.300, F.A.C., and the Department of Environmental Protection Guide to Permitting Wastewater Facilities or Activities Under Chapter 62-620, F.A.C., at least 90 days before construction of any planned substantial modifications to the permitted facility is to commence or with Rule 62-620.325(2), F.A.C., for minor modifications to the permitted facility. A revised permit shall be obtained before construction begins except as provided in Rule 62-620.300, F.A.C. [62-620.610(16)]
17. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. The permittee shall be responsible for any and all damages which may result from the changes and may be subject to enforcement action by the Department for penalties or revocation of this permit. The notice shall include the following information:
 - a. A description of the anticipated noncompliance;
 - b. The period of the anticipated noncompliance, including dates and times; and
 - c. Steps being taken to prevent future occurrence of the noncompliance.[62-620.610(17)]
18. Sampling and monitoring data shall be collected and analyzed in accordance with Rule 62-4.246 and Chapters 62-160, 62-600, and 62-610, F.A.C., and 40 CFR 136, as appropriate.
 - a. Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be reported on a Discharge Monitoring Report (DMR), DEP Form 62-620.910(10), or as specified elsewhere in the permit.
 - b. If the permittee monitors any contaminant more frequently than required by the permit, using Department approved test procedures, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
 - c. Calculations for all limitations which require averaging of measurements shall use an arithmetic mean unless otherwise specified in this permit.
 - d. Except as specifically provided in Rule 62-160.300, F.A.C., any laboratory test required by this permit shall be performed by a laboratory that has been certified by the Department of Health Environmental Laboratory Certification Program (DOH ELCP). Such certification shall be for the matrix, test method and analyte(s) being measured to comply with this permit. For domestic wastewater facilities, testing for parameters listed in Rule 62-160.300(4), F.A.C., shall be conducted under the direction of a certified operator.
 - e. Field activities including on-site tests and sample collection shall follow the applicable standard operating procedures described in DEP-SOP-001/01 adopted by reference in Chapter 62-160, F.A.C.

- f. Alternate field procedures and laboratory methods may be used where they have been approved in accordance with Rules 62-160.220, and 62-160.330, F.A.C.

[62-620.610(18)]

19. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule detailed elsewhere in this permit shall be submitted no later than 14 days following each schedule date. [62-620.610(19)]
20. The permittee shall report to the Department's Southeast District Office any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the noncompliance and its cause; the period of noncompliance including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- a. The following shall be included as information which must be reported within 24 hours under this condition:
- (1) Any unanticipated bypass which causes any reclaimed water or effluent to exceed any permit limitation or results in an unpermitted discharge,
 - (2) Any upset which causes any reclaimed water or the effluent to exceed any limitation in the permit,
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants specifically listed in the permit for such notice, and
 - (4) Any unauthorized discharge to surface or ground waters.
- b. Oral reports as required by this subsection shall be provided as follows:
- (1) For unauthorized releases or spills of treated or untreated wastewater reported pursuant to subparagraph (a)4. that are in excess of 1,000 gallons per incident, or where information indicates that public health or the environment will be endangered, oral reports shall be provided to the STATE WATCH OFFICE TOLL FREE NUMBER (800) 320-0519, as soon as practical, but no later than 24 hours from the time the permittee becomes aware of the discharge. The permittee, to the extent known, shall provide the following information to the State Watch Office:
 - (a) Name, address, and telephone number of person reporting;
 - (b) Name, address, and telephone number of permittee or responsible person for the discharge;
 - (c) Date and time of the discharge and status of discharge (ongoing or ceased);
 - (d) Characteristics of the wastewater spilled or released (untreated or treated, industrial or domestic wastewater);
 - (e) Estimated amount of the discharge;
 - (f) Location or address of the discharge;
 - (g) Source and cause of the discharge;
 - (h) Whether the discharge was contained on-site, and cleanup actions taken to date;
 - (i) Description of area affected by the discharge, including name of water body affected, if any; and
 - (j) Other persons or agencies contacted.
 - (2) Oral reports, not otherwise required to be provided pursuant to subparagraph b.1 above, shall be provided to the Department's Southeast District Office within 24 hours from the time the permittee becomes aware of the circumstances.
- c. If the oral report has been received within 24 hours, the noncompliance has been corrected, and the noncompliance did not endanger health or the environment, the Department's Southeast District Office shall waive the written report.

[62-620.610(20)]

21. The permittee shall report all instances of noncompliance not reported under Permit Conditions IX.17., IX.18., or IX.19. of this permit at the time monitoring reports are submitted. This report shall contain the same information required by Permit Condition IX.20. of this permit. [62-620.610(21)]

22. Bypass Provisions.

- a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment works.
- b. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless the permittee affirmatively demonstrates that:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under Permit Condition IX.22.c. of this permit.
- c. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass. The permittee shall submit notice of an unanticipated bypass within 24 hours of learning about the bypass as required in Permit Condition IX.20. of this permit. A notice shall include a description of the bypass and its cause; the period of the bypass, including exact dates and times; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- d. The Department shall approve an anticipated bypass, after considering its adverse effect, if the permittee demonstrates that it will meet the three conditions listed in Permit Condition IX.22.b.(1) through (3) of this permit.
- e. A permittee may allow any bypass to occur which does not cause reclaimed water or effluent limitations to be exceeded if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Permit Condition IX.22.b. through d. of this permit.

[62-620.610(22)]

23. Upset Provisions.

- a. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based effluent limitations because of factors beyond the reasonable control of the permittee.
 - (1) An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, careless or improper operation.
 - (2) An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of upset provisions of Rule 62-620.610, F.A.C., are met.
- b. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in Permit Condition IX.20. of this permit; and
 - (4) The permittee complied with any remedial measures required under Permit Condition IX.5. of this permit.

- c. In any enforcement proceeding, the burden of proof for establishing the occurrence of an upset rests with the permittee.
- d. Before an enforcement proceeding is instituted, no representation made during the Department review of a claim that noncompliance was caused by an upset is final agency action subject to judicial review.

[62-620.610(23)]

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



March 14, 2018

Jennifer K. Smith
Southeast District Director
Department of Environmental Protection
3301 Gun Club Road
MSC 7210-1
West Palm Beach, FL 33407

Date

JS/DP/brk: FLA979830-001-DW1S-NP

DEPARTMENT OF ENVIRONMENTAL PROTECTION DISCHARGE MONITORING REPORT - PART A

When Completed submit this report to: Department of Environmental Protection, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406-3007

PERMITTEE NAME: Sunbreak Farms
MAILING ADDRESS: 5101 Minute Maid Rd
Fort Pierce, Florida 34945-4351

PERMIT NUMBER: FLA979830-001-DW1S

FACILITY: Sunbreak Farms
LOCATION: 5101 Minute Maid Road
Fort Pierce, FL 34945-

LIMIT: Final
CLASS SIZE: N/A
MONITORING GROUP NUMBER: RMP-AA
MONITORING GROUP DESCRIPTION: Class AA Biosolids Management Composting
RE-SUBMITTED DMR: ☐
NO DISCHARGE FROM SITE: ☐
MONITORING PERIOD From: _____ To: _____

REPORT FREQUENCY: Monthly
PROGRAM: Domestic

COUNTY: St. Lucie
OFFICE: Southeast District

Parameter		Quantity or Loading	Units	Quality or Concentration	Units	No. Ex.	Frequency of Analysis	Sample Type
Nitrogen, Sludge, Tot, Dry Wt (as N)	Sample Measurement							
PARM Code 78470 + Mon Site No RMP-AA	Permit Requirement	Report (Mo Avg.)	percent				Monthly	Composite
Phosphorus, Sludge, Tot, Dry Wt (as P)	Sample Measurement							
PARM Code 78478 + Mon Site No RMP-AA	Permit Requirement	Report (Mo Avg.)	percent				Monthly	Composite
Potassium, Sludge, Tot, Dry Wt (as K)	Sample Measurement							
PARM Code 78472 + Mon Site No RMP-AA	Permit Requirement	Report (Mo Avg.)	percent				Monthly	Composite
Arsenic Total, Dry Weight, Sludge	Sample Measurement							
PARM Code 49565 + Mon Site No RMP-AA	Permit Requirement			41.0 (Mo Avg.)	75.0 (Max.)	mg/kg	Monthly	Composite
Cadmium, Sludge, Tot, Dry Weight (as Cd)	Sample Measurement							
PARM Code 78476 + Mon Site No RMP-AA	Permit Requirement			39.0 (Mo Avg.)	85.0 (Max.)	mg/kg	Monthly	Composite
Copper, Sludge, Tot, Dry Wt (as Cu)	Sample Measurement							
PARM Code 78475 + Mon Site No RMP-AA	Permit Requirement			1500.0 (Mo Avg.)	4300.0 (Max.)	mg/kg	Monthly	Composite

***EITHER THE FECAL COLIFORM LIMIT OR SALMONELLA SP. LIMIT MUST BE MET**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME/TITLE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	TELEPHONE NO.	DATE (mm/dd/yyyy)

COMMENT AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here):

ISSUANCE/REISSUANCE DATE : March 2018

DISCHARGE MONITORING REPORT - PART A (Continued)

FACILITY: Sunbreak Farms

MONITORING GROUP

RMP-AA

PERMIT NUMBER: FLA979830-001-DW1S

NUMBER:

MONITORING PERIOD

From:

To:

Parameter		Quantity or Loading		Units	Quality or Concentration		Units	No. Ex.	Frequency of Analysis	Sample Type
Lead, Dry Weight, Sludge	Sample Measurement									
PARM Code 78468 + Mon. Site No. RMP-AA	Permit Requirement				300.0 (Mo. Avg.)	840.0 (Max.)	mg/kg		Monthly	Composite
Mercury, Dry Weight, Sludge	Sample Measurement									
PARM Code 78471 + Mon. Site No. RMP-AA	Permit Requirement				17.0 (Mo. Avg.)	57.0 (Max.)	mg/kg		Monthly	Composite
Molybdenum, Dry Weight, Sludge	Sample Measurement									
PARM Code 78465 + Mon. Site No. RMP-AA	Permit Requirement					75.0 (Max.)	mg/kg		Monthly	Composite
Nickel, Dry Weight, Sludge	Sample Measurement									
PARM Code 78469 + Mon. Site No. RMP-AA	Permit Requirement				420.0 (Mo. Avg.)	420.0 (Max.)	mg/kg		Monthly	Composite
Selenium Sludge Solid	Sample Measurement									
PARM Code 61518 + Mon. Site No. RMP-AA	Permit Requirement				100.0 (Mo. Avg.)	100.0 (Max.)	mg/kg		Monthly	Composite
Zinc, Dry Weight, Sludge	Sample Measurement									
PARM Code 78467 + Mon. Site No. RMP-AA	Permit Requirement				2800.0 (Mo. Avg.)	7500.0 (Max.)	mg/kg		Monthly	Composite
pH	Sample Measurement									
PARM Code 00400 + Mon. Site No. RMP-AA	Permit Requirement					Report (Max.)	s.u.		Monthly	Grab
Solids, Total, Sludge, Percent	Sample Measurement									
PARM Code 61553 + Mon. Site No. RMP-AA	Permit Requirement				Report (Mo. Avg.)	Report (Max.)	percent		Monthly	Composite
Coliform, Fecal	Sample Measurement									
PARM Code 74055 + Mon. Site No. RMP-AA	Permit Requirement		1000.0 (Max.)	MPN/g					Monthly	Grab
Salmonella Sludge	Sample Measurement									
PARM Code 71204 + Mon. Site No. RMP-AA	Permit Requirement		3.0 (Max.)	MPN/4g					Monthly	Grab

DEPARTMENT OF ENVIRONMENTAL PROTECTION DISCHARGE MONITORING REPORT - PART A

When Completed submit this report to: Department of Environmental Protection, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406-3007

PERMITTEE NAME: Sunbreak Farms
MAILING ADDRESS: 5101 Minute Maid Rd
Fort Pierce, Florida 34945-4351

PERMIT NUMBER: FLA979830-001-DW1S

FACILITY: Sunbreak Farms
LOCATION: 5101 Minute Maid Road
Fort Pierce, FL 34945-

LIMIT:
CLASS SIZE:
MONITORING GROUP NUMBER:
MONITORING GROUP DESCRIPTION: RMP-Q
RE-SUBMITTED DMR: ☐
NO DISCHARGE FROM SITE: ☐
MONITORING PERIOD From: To:

REPORT FREQUENCY: Monthly
PROGRAM: Domestic

COUNTY: St. Lucie
OFFICE: Southeast District

Parameter		Quantity or Loading		Units	Quality or Concentration			Units	No Ex	Frequency of Analysis	Sample Type
Biosolids Quantity (Landfilled)	Sample Measurement										
PARM Code B0008 Mon. Site No.	Permit Requirement		Report (Mo. Total)	dry tons						Monthly	Calculated
Biosolids Quantity (Distributed & Marketed in FL)	Sample Measurement										
PARM Code B0004 Mon. Site No.	Permit Requirement		Report (Mo. Total)	dry tons						Monthly	Calculated
Biosolids Quantity (Distributed & Marketed outside FL)	Sample Measurement										
PARM Code B0005 Mon. Site No.	Permit Requirement		Report (Mo. Total)	dry tons						Monthly	Calculated
Biosolids Quantity (Received)	Sample Measurement										
PARM Code B0002 Mon. Site No.	Permit Requirement		Report (Mo. Total)	dry tons						Monthly	Calculated

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME/TITLE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT	TELEPHONE NO.	DATE (mm/dd/yyyy)

COMMENT AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments [here](#)):

INSTRUCTIONS FOR COMPLETING THE WASTEWATER DISCHARGE MONITORING REPORT

Read these instructions before completing the DMR. Hard copies and/or electronic copies of the required parts of the DMR were provided with the permit. All required information shall be completed in full and typed or printed in ink. A signed, original DMR shall be mailed to the address printed on the DMR by the 28th of the month following the monitoring period. Facilities who submit their DMR(s) electronically through eDMR do not need to submit a hardcopy DMR. The DMR shall not be submitted before the end of the monitoring period.

The DMR consists of three parts--A, B, and D--all of which may or may not be applicable to every facility. Facilities may have one or more Part A's for reporting effluent or reclaimed water data. All domestic wastewater facilities will have a Part B for reporting daily sample results. Part D is used for reporting ground water monitoring well data.

When results are not available, the following codes should be used on parts A and D of the DMR and an explanation provided where appropriate. Note: Codes used on Part B for raw data are different.

COD	DESCRIPTION/INSTRUCTIONS
ANC	Analysis not conducted.
DRY	Dry Well
FLD	Flood disaster.
IFS	Insufficient flow for sampling.
LS	Lost sample.
MNR	Monitoring not required this period.

COD	DESCRIPTION/INSTRUCTIONS
NOD	No discharge from/to site.
OPS	Operations were shutdown so no sample could be taken.
OTH	Other. Please enter an explanation of why monitoring data were not available.
SEF	Sampling equipment failure.

When reporting analytical results that fall below a laboratory's reported method detection limits or practical quantification limits, the following instructions should be used, unless indicated otherwise in the permit or on the DMR:

1. Results greater than or equal to the PQL shall be reported as the measured quantity.
2. Results less than the PQL and greater than or equal to the MDL shall be reported as the laboratory's MDL value. These values shall be deemed equal to the MDL when necessary to calculate an average for that parameter and when determining compliance with permit limits.
3. Results less than the MDL shall be reported by entering a less than sign ("<") followed by the laboratory's MDL value, e.g., < 0.001. A value of one-half the MDL or one-half the effluent limit, whichever is lower, shall be used for that sample when necessary to calculate an average for that parameter. Values less than the MDL are considered to demonstrate compliance with an effluent limitation.

PART A -DISCHARGE MONITORING REPORT (DMR)

Part A of the DMR is comprised of one or more sections, each having its own header information. Facility information is preprinted in the header as well as the monitoring group number, whether the limits and monitoring requirements are interim or final, and the required submittal frequency (e.g. monthly, annually, quarterly, etc.). Submit Part A based on the required reporting frequency in the header and the instructions shown in the permit. The following should be completed by the permittee or authorized representative:

Resubmitted DMR: Check this box if this DMR is being re-submitted because there was information missing from or information that needed correction on a previously submitted DMR. The information that is being revised should be clearly noted on the re-submitted DMR (e.g. highlight, circle, etc.)

No Discharge From Site: Check this box if no discharge occurs and, as a result, there are no data or codes to be entered for all of the parameters on the DMR for the entire monitoring group number; however, if the monitoring group includes other monitoring locations (e.g., influent sampling), the "NOD" code should be used to individually denote those parameters for which there was no discharge.

Monitoring Period: Enter the month, day, and year for the first and last day of the monitoring period (i.e. the month, the quarter, the year, etc.) during which the data on this report were collected and analyzed.

Sample Measurement: Before filling in sample measurements in the table, check to see that the data collected correspond to the limit indicated on the DMR (i.e. interim or final) and that the data correspond to the monitoring group number in the header. Enter the data or calculated results for each parameter on this row in the non-shaded area above the limit. Be sure the result being entered corresponds to the appropriate statistical base code (e.g. annual average, monthly average, single sample maximum, etc.) and units. Data qualifier codes are not to be reported on Part A.

No. Ex.: Enter the number of sample measurements during the monitoring period that exceeded the permit limit for each parameter in the non-shaded area. If none, enter zero.

Frequency of Analysis: The shaded areas in this column contain the minimum number of times the measurement is required to be made according to the permit. Enter the actual number of times the measurement was made in the space above the shaded area.

Sample Type: The shaded areas in this column contain the type of sample (e.g. grab, composite, continuous) required by the permit. Enter the actual sample type that was taken in the space above the shaded area.

Signature: This report must be signed in accordance with Rule 62-620.305, F.A.C. Type or print the name and title of the signing official. Include the telephone number where the official may be reached in the event there are questions concerning this report. Enter the date when the report is signed.

Comment and Explanation of Any Violations: Use this area to explain any exceedances, any upset or by-pass events, or other items which require explanation. If more space is needed, reference all attachments in this area.

PART B - DAILY SAMPLE RESULTS

Monitoring Period: Enter the month, day, and year for the first and last day of the monitoring period (i.e. the month, the quarter, the year, etc.) during which the data on this report were collected and analyzed.

Daily Monitoring Results: Transfer all analytical data from your facility's laboratory or a contract laboratory's data sheets for all day(s) that samples were collected. Record the data in the units indicated. Table 1 in Chapter 62-160, F.A.C., contains a complete list of all the data qualifier codes that your laboratory may use when reporting analytical results. However, when transferring numerical results onto Part B of the DMR, only the following data qualifier codes should be used and an explanation provided where appropriate.

CODE	DESCRIPTION/INSTRUCTIONS
<	The compound was analyzed for but not detected.
A	Value reported is the mean (average) of two or more determinations.
J	Estimated value, value not accurate.
Q	Sample held beyond the actual holding time.
Y	Laboratory analysis was from an unpreserved or improperly preserved sample.

To calculate the monthly average, add each reported value to get a total. For flow, divide this total by the number of days in the month. For all other parameters, divide the total by the number of observations.

Plant Staffing: List the name, certificate number, and class of all state certified operators operating the facility during the monitoring period. Use additional sheets as necessary.

PART D - GROUND WATER MONITORING REPORT

Monitoring Period: Enter the month, day, and year for the first and last day of the monitoring period (i.e. the month, the quarter, the year, etc.) during which the data on this report were collected and analyzed.

Date Sample Obtained: Enter the date the sample was taken. Also, check whether or not the well was purged before sampling.

Time Sample Obtained: Enter the time the sample was taken.

Sample Measurement: Record the results of the analysis. If the result was below the minimum detection limit, indicate that. Data qualifier codes are not to be reported on Part D.

Detection Limits: Record the detection limits of the analytical methods used.

Analysis Method: Indicate the analytical method used. Record the method number from Chapter 62-160 or Chapter 62-601, F.A.C., or from other sources.

Sampling Equipment Used: Indicate the procedure used to collect the sample (e.g. airlift, bucket/bailer, centrifugal pump, etc.)

Samples Filtered: Indicate whether the sample obtained was filtered by laboratory (L), filtered in field (F), or unfiltered (N).

Signature: This report must be signed in accordance with Rule 62-620.305, F.A.C. Type or print the name and title of the signing official. Include the telephone number where the official may be reached in the event there are questions concerning this report. Enter the date when the report is signed.

Comments and Explanation: Use this space to make any comments on or explanations of results that are unexpected. If more space is needed, reference all attachments in this area.

SPECIAL INSTRUCTIONS FOR LIMITED WET WEATHER DISCHARGES

Flow (Limited Wet Weather Discharge): Enter the measured average flow rate during the period of discharge or divide gallons discharged by duration of discharge (converted into days). Record in million gallons per day (MGD).
Flow (Upstream): Enter the average flow rate in the receiving stream upstream from the point of discharge for the period of discharge. The average flow rate can be calculated based on two measurements; one made at the start and one made at the end of the discharge period. Measurements are to be made at the upstream gauging station described in the permit.

Actual Stream Dilution Ratio: To calculate the Actual Stream Dilution Ratio, divide the average upstream flow rate by the average discharge flow rate. Enter the Actual Stream Dilution Ratio accurate to the nearest 0.1.

No. of Days the SDF > Stream Dilution Ratio: For each day of discharge, compare the minimum Stream Dilution Factor (SDF) from the permit to the calculated Stream Dilution Ratio. On Part B of the DMR, enter an asterisk (*) if the SDF is greater than the Stream Dilution Ratio on any day of discharge. On Part A of the DMR, add up the days with an "*" and record the total number of days the Stream Dilution Factor was greater than the Stream Dilution Ratio.

CBOD₅: Enter the average CBOD₅ of the reclaimed water discharged during the period shown in duration of discharge.

TKN: Enter the average TKN of the reclaimed water discharged during the period shown in duration of discharge.

Actual Rainfall: Enter the actual rainfall for each day on Part B. Enter the actual cumulative rainfall to date for this calendar year and the actual total monthly rainfall on Part A. The cumulative rainfall to date for this calendar year is the total amount of rain, in inches, that has been recorded since January 1 of the current year through the month for which this DMR contains data.

Rainfall During Average Rainfall Year: On Part A, enter the total monthly rainfall during the average rainfall year and the cumulative rainfall for the average rainfall year. The cumulative rainfall for the average rainfall year is the amount of rain, in inches, which fell during the average rainfall year from January through the month for which this DMR contains data.

No. of Days LWWD Activated During Calendar Year: Enter the cumulative number of days that the limited wet weather discharge was activated since January 1 of the current year.

Reason for Discharge: Attach to the DMR a brief explanation of the factors contributing to the need to activate the limited wet weather discharge.

**AMENDMENT TO THE FACT SHEET
AT
THE TIME OF NOTICE OF PERMIT ISSUANCE
FOR
STATE OF FLORIDA DOMESTIC WASTEWATER FACILITY PERM**

March 12, 2018

PERMIT NUMBER: FLA979830-001

FACILITY NAME: Sunbreak Farms

FACILITY LOCATION: 5101 Minute Maid Road, Fort Pierce, FL 34945
St. Lucie County

NAME OF PERMITTEE: Sunbreak Farms, LLC

PERMIT WRITER: Bruce R. Kay

A. Changes to the Permit Intent to Issue in order: Changes in Bold

- | | permit | |
|----|--------|---|
| # | page # | Changes |
| 1. | 1. | Latitude: 27° 31 ' 28.05" North Longitude: 80° 32' 50.96 West |
| 2. | 1. | "A new, Type I Biosolids Management Facility with a permitted Class AA compost production of 80,000 dry tons per year . Sunbreak Farms will utilize the Modified Static Aerated Pile (MSAP) method to achieve the required compost treatment of biosolids as approved by EPA." |
| 3. | 1. | "The MSAP method has been approved as a method modification by EPA Region 9 (July 1, 2003), and its use has also been allowed by EPA Regions 4 and 8 as an alternative Process to Further Reduce Pathogens (PFRP)." |
| 4. | 2. | "Once each windrow or windrow section is complete Sunbreak Farms staff shall apply a 12-inch layer of bulking agent over the top and sides of the windrow ." |
| 5. | 2. | "Vector attraction reduction of Class AA compost will be achieved by maintaining aerobic composting with a temperature greater than 104 degrees F (40 degrees C) for 14 days or longer after the Pathogen reduction period of 15 days." |
| 6. | 2. | "The limitations, monitoring requirements, and other conditions set forth in this cover sheet and Part I through Part IX on pages 1 through 15 of this permit." |
| 7. | 3. | " Class AA Biosolids Compost generated by this facility may be distributed and marketed or disposed of in a Class I solid waste landfill. [62-620.320(6), 62-640.880(1)] "
Permit |

8. 3. “Biosolids quantities shall be monitored for each composting site by the permittee as specified below. **Monitoring** results of all compost sites distributed and marketed that month shall be reported on the permittee's Discharge Monitoring Report for Monitoring Group RMP-Q in accordance with Condition I.A.4.”

9. 8. “Prior to placing the new facilities into operation or any individual unit processes into operation, for any purpose other than testing for leaks and equipment operation, the Permittee shall complete and submit to the Department DEP Form 62-620.910(12), Notification of Completion of Construction for Wastewater Facilities or Activities. The project calls for a number of pads to be used for the composting operation and the retention basin for stormwater treatment. Each pad and respective retention basin should be certified complete. This may include multiple partial certification. After all the planned basins and retention basins are certified, the Permittee shall indicate this is a final certification. [62-620.410(7)f”

10. 8. “Within six months after a facility is placed in operation, the permittee shall provide written certification to the Department on Form 62-620.910(13) that record drawings pursuant to Chapter 62-620, F.A.C., and that an operation and maintenance manual pursuant to Chapters 62-600 and 62-610, F.A.C., as applicable, are available at the location specified on the form. This will include partial certifications.. [62-620.410(6) and 62-620.630(7)f”

B. COUNTY COMMENTS AND REPLIES OF COMMENTS RECEIVED BY JUNE 12, 2017

permit	
#	page #
Comment and Response	
<hr/>	
1.	N/A COMMENT: May 23, 2017: ST. LUCIE COUNTY'S REQUEST FOR ENLARGEMENT OF TIME TO FILE PETITION FOR ADMINISTRATIVE HEARING
2.	N/A COMMENT: May 23, 2017 INDIAN RIVER COUNTY ' S REQUEST FOR ENLARGEMENT OF TIME TO FILE PETITION FOR ADMINISTRATIVE HEARING
3.	N/A COMMENT: June 12, 2017 ST. LUCIE COUNTY'S PETITION FOR FORMAL ADMINISTRATIVE HEARING

C. PUBLIC COMMENTS AND REPLIES

permit		
#	page #	Comment and Response
1.	N/A	<p>COMMENT: 5/16/2017, Mark Murray: With The high ground water in the area and the Class B biosolids to be stored, used, disposed or convert in this site, as well has local commercial agriculture in the area, I am interested in the reasoning for not requiring groundwater monitoring.</p> <p>RESPONSE: 5/22/2017 We only regulate the treatment of the biosolids and the not the use as it is being treated to Class AA. There are little or no liquid being discharged to the ground. During the treatment process, water is added instead of leaching out of the biosolids. During rain events, the rain soaks into the pile to help keep the compost pile damp to allow the aerobic digestion of the biosolids. Without the rain, the piles would have to be wetted to keep the process working. Therefore, little or no contaminated rainwater leaves the piles.</p>
2.	N/A	<p>COMMENT: 5/22/2017 Rolf D. Seichter we saw when the Mayor of PSL, myself, and another professional individual (TYCO Fire Protection) visited the Compost USA bio-solid processing site, which at that time was on record with several violations. Not to mention the other Compost USA facility which was closed because of a Court Order. I saw in the Ocala composting piles syringes for horses, some of them still had "some stuff" in them, empty oil cans, and other liquid garbage cans which would NOT turn into fertilizer. Granted that the metal and plastic would be caught in the tumbler, but the oil and content of syringes would end up in the soil over time, and would be swept through rain water into the waterways. Another important aspect in regard to fire hazard or even explosions: The processing plant, assuming it being in an enclosed building, would have a high content of highly flammable dust because of the necessary turning and mixing of the biosolid material, especially when it dries out later in the process and it is being packed into plastic bags to be shipped to consumers. This dust represents a tremendous fire hazard and explosion hazard, like what you have often happening in grain silos. Therefore, just these two scenarios above make these biosolid processing plants, either "open-air" or enclosed, NOT SUITABLE to being located near any populated area.</p> <p>RESPONSE: 6/1/2017 Our permitting decisions are not based on other facilities compliance. However, during the preapplication discussions with the Sunbreak Farms Staff and Sunbreak's consulting engineers we assisted them to ensure those same problems will not occur. Essentially, the site conditions are not the same at the other facilities. The conditions that caused or had caused operation problems at these other sites are not present at this site. Regarding your concern about syringes (for horses) within Ocala composting piles. The source of these syringes is from horse bedding materials, and the Department along with Department of Agriculture are working on trying to educate the Horse Industry to stop the practice of throwing their wastes into the horse bedding. Any compost operation even if not using biosolids would have to manage this problem. If Sunbreak Farms receives horse bedding materials, they should address the cleanliness of the material used. Regarding your concern of fire hazards due to processing within a building or storage of material in silos or bagging of compost. Sunbreak Farms does not propose processing within a building, silo storage or bagging or shipping product to customers. The compost materials will be incorporated into onsite soils as part of normal farming activities. Dust is not a concern with composting operation as the compost have moisture of around 50 percent. Regarding your concern biosolids processing facility (composting operation) should not be near populated areas. The site is remote and there are no populated areas nearby.</p>

3. N/A COMMENT: Linda Gausten, 6/1/2017: The Sunbreak Farms facility will be receiving tipping fees for the human waste brought into their farming operation. As such, the revenue from the tipping fees would be considered another source of revenue other than the traditional farming revenue. As such, it no longer can be considered just a farming operation. Storm runoff from the composting operations will enter Canal 25 and that constitutes a nuisance since it will pollute our waterways. What is being done to prevent that?

RESPONSE: 6/2/2017: Thank you for your email providing your concerns. My responses are the following:

TIPPING FEE: The Department's decision to permit this facility (under the auspices of the State Laws) is not based on whether tipping fees. The Department is not involved in the financial matters between business parties, nor does the Department have statutory authority to consider this in our permitting decisions.

CANAL 25: The drainage from the compost facilities will discharge to the adjacent fields with no direct discharge to the farmer's drainage system nor to Canal 25.

4. N/A COMMENT: June 2, 2017, Phone Call, Joel Winn suggested the Latitude was incorrect.

RESPONSE: we will change to Latitude, 27 DEG 31 MIN, 28.05 SEC N, Longitude 80 DEG, 32 MIN, 50.96 SEC W.

5. N/A COMMENT: June 7, 2017 – Jeffrey Surniak, Standard Case 00061293
A permit should not be granted to Sunbreak Farms. This project will dramatically reduce the values of numerous nearby properties.

RESPONSE: We are not aware of conditions that would dramatically reduce the value of numerous nearby properties.

6. N/A COMMENT: June 8, 2017 - Robin Danahower Phone Message – Adamantly opposed to biosolids on farm in St. Lucie County. June 9, 2017 Returned call LM, no return.

RESPONSE: Message left.- There was no information given to show that we did not follow Department's requirements concerning review and making a permit decision. We cannot use unjustified opposition to make permit decisions.

7. N/A COMMENT: June 8, 2017, Phone call from Len Shapiro, to ask questions about biosolids composting process, odor reduction and traffic increase.

RESPONSE: The proposed process should not result in odors that crosses the Permittee's property boundary. The Permittee will be receiving biosolids from source facilities (DEP Permitted Wastewater Treatment Facilities). The source facility is responsible for the hauling of the biosolids and transfers the responsibility to the Biosolids Treatment Facility (BTF) when the BTF Permittee accepts the biosolids. The Permittee has no obligation to accept the biosolids if the biosolids are unsuitable for the process due to condition of the biosolids. Once rejected, the source facility will remain responsible for the biosolids and not the BTF. Once accepted, the BTF should assist the hauler beginning with the unloading operations and will manage thereafter.

8. N/A COMMENT: June 8, 2017, Phone message from Michele Kolandro – against raw sewage to be spread on farm, June 9, 2017 Response: No raw sewage will be spread on the farm. N/A COMMENT: June 9, 2017, St. Lucie County Environmental Manager Phone message, returned LM discussed Farm and controls of public health.

RESPONSE: The project complies with Department's rules and regulations. Therefore, we do not consider issuance of this permit will have an adverse impact on public health.

9. N/A COMMENT: June 9, 2017 Message received from Joe Hale. He would not object to this project if there are no odors.

RESPONSE: The Department rules concerning odors outside the Permittee's property. There are no expectation for odors to travel beyond the Permittee property.

#	permit page #	Comment and Response
10. N/A	<p>COMMENT: June 10, 2017, email from James C Spencer “serious reservations about cost/benefit ratio here”. If Sunbreak Farm sets a precedent here, it will be used by others</p> <p>RESPONSE: The cost/benefit ratio does not apply when the Permit complies with the Department rules and regulations.</p>	
11. N/A	<p>COMMENT: June 10, 2017, email from Marilyn` Nader –“I am opposed to any compost facility near a residential community.”</p> <p>RESPONSE: There are no nearby residential communities.</p>	
12. N/A	<p>COMMENT: June 11, 2017 email from Rolf D. Seichter with “official inputs” and photos. Discusses permit is near copy of another biosolids composting facility’s permit.</p> <p>RESPONSE: Each site is different. The specific site has conditions that make this project permissible.</p>	
13. N/A	<p>COMMENT: June 12, 2017 – Email from Shari Anker, Opposition from Conservation Alliance of St. Lucie County</p> <p>RESPONSE: We can only address details that show the project does not comply with Department rules and regulations. Personnel preferences are not considered in our permitting decisions.</p>	
6/12/2017	<p>St. Lucie County’s Petition for Hearing Once the petition was received, the Department’s Office of General Council (OGC) handles the hearing request and processing. Therefore, we do not provide any discussion concerning the hearing request. We are no longer allowed to receive direct communication about Sunbreak vs St. Lucie County.</p>	
2/13/2018	<p>The Department closed the file on the hearing after St. Lucie County withdrew their petition. The Department is now able to finalize the application.</p>	

**FACT SHEET
FOR
STATE OF FLORIDA DOMESTIC WASTEWATER FACILITY PERMIT**

May 8, 2017

DRAFT

PERMIT NUMBER: FLA979830-001

FACILITY NAME: Sunbreak Farms

FACILITY LOCATION: 5101 Minute Maid Road, Fort Pierce, FL 34945
St. Lucie County

NAME OF PERMITTEE: Sunbreak Farms

PERMIT WRITER: Bruce R. Kay

1. SUMMARY OF APPLICATION

a. Chronology of Application

Application Number: FLA979830-001-DW1S

Application Submittal Date: March 14, 2017

b. Type of Facility

Domestic Wastewater Treatment Plant

Ownership Type: Private

SIC Code: 4952

c. Facility Capacity

Existing Permitted Capacity: N/A

Proposed Increase in Permitted Capacity: 500 Dry Tons per Day

Proposed Total Permitted Capacity: 500 Dry Tons per Day

d. Description of Wastewater Treatment

A new, Type I Biosolids Management Facility with a permitted Class AA compost production of 500 dry tons per day. Sunbreak Farms will utilize the Modified Static Aerated Pile (MSAP) method to achieve the required compost treatment of biosolids as approved by EPA. The MSAP method has been approved as a method modification by EPA Region 9 (July 1, 2003), granted an equivalency determination as an alternative PFRP Biosolids will be blended at the facility with bulking agents that primary consist of chipped yard trash debris and other green waste and mixed at a ratio of 3-to-1 (green waste to biosolids). They may include other organic wastes like chicken and other animal wastes mixed with the biosolids. Composting of these other wastes without mixing with biosolids can be under a solid waste compost permit at the option of the Permittee. Mixing is by mechanical means to thoroughly mix the biosolids and bulking agent together. Where possible, the most freshly ground yard trash shall be set aside separately due to its ideal properties for mixing directly into the biosolids (relatively low moisture content and high porosity). Windrows for active composting shall be constructed directly on a compost pad. Prior to placing blended biosolids in the management area a 50:50 blend of ground yard trash and screened compost from screening during post-processing, shall be used to create a 12-inch base layer upon which active composting will be placed. Based on availability of material, this ratio is 100 percent of either material or any other ratio. The blended biosolids will be placed into windrows constructed to dimensions that are approximately 16 feet wide and 8 feet tall. Once each windrow or windrow section is completely formed and mixed, Sunbreak Farms Staff shall apply the Harvest Quest proprietary catalyst to the entire pile surface. When the windrow is completely covered by the catalyst, Sunbreak Farms staff shall apply a 12-inch layer of unscreened finished compost or ground yard trash (in any ratio). The purpose of this capping layer is to serve as an instant biofilter to reduce odors, add in aeration of the compost and insulation of the compost piles to maintain proper temperature. Pathogen reduction standards for Class AA compost will be achieved by maintaining a minimum temperature of

131degrees F (55 degrees C) in each windrow for a minimum period of 15 consecutive days. Within several days, the entire pile will exceed the required 131 degrees F (55 degrees C). Composting of the materials shall continue for 30-45 days with the windrow remaining undisturbed. Vector attraction reduction of Class AA compost will be achieved by maintain aerobic composting with a temperature greater than 40 degrees C for 14 days or longer after the Pathogens period of 15 days. At any time, the piles can be turned if needed for aeration or for moisture control. After turning, the pathogens standards and vector attraction reduction standards may have to be repeated if it had not finished prior to the turning. After complying with both pathogens and vector attraction standards, the pile is considered completed. The Permittee may extend the composting time with additional turning of the piles for better curing. After curing, the product is screened and cooled. Another alternative for vector attraction reduction is for the incorporation of class AA with respect to pathogens within 8 hours of discharge from the compost per EPA 503.33 Z(b)(10)(ii). Once Sunbreak Farms has confirmed the compost product meets all permitted criteria for a Class AA fertilizer it will be distributed and marketed as fertilizer.

Instead of the typical biosolids treatment facility that concentrates the operation in one area, the Applicant plans to spread out the piles within the farm that it owns. A farmer (User of the compost) is under contract with the land owner (the Applicant) to farm the property. The farmer grows corn that will produce silage. The complete removal of the corn including the stalk requires rejuvenating the site after each harvest. Compost is superior product to add organic material to the field (soil amendment) and some of the fertilizer demand. Without the composting, the fields will lose more nutrients to the groundwater and potential discharge off site during heavy rainstorm events. By spreading the sites to each of the forty fields, there is a minimal amount of runoff from the compost operation which is first discharged to a retention ditch downgradient to the compost areas. The composting areas will be constructed with a 2% slope towards an internal v-ditch (inside containment berm). This will promote drainage away from the piles. The v-ditch will be constructed with sufficient storage to retain over 2.4" of runoff from the compost areas. Per FDEP's Evaluation of Stormwater Design Criteria within the State of Florida (Harper, 2007) this captures approximately 90% of annual rainfall events. Perimeter berms shall be formed around the composting areas prior to construction of windrows. The berms will be a minimum of 24" in height and will provide 100% containment of the 100-year, 3-day storm event over a typical compost area. No discharge from the compost areas to either the fields or perimeter ditches will occur. Most of the rainfall is pumped from the stormwater/irrigation ditches to a large irrigation storage pond (640 Acres). The site is within a large farming operation with around 6580 acres. Forty large fields (average slightly over 115 acres each) are surrounded by stormwater/irrigation system (ditches). Between the ditches and the fields are lime rock areas that are used for internal farm road system. On the western side of the fields are major road beds. The road beds of these sides are elevated above the fields. The fields have a slight slope from West to East. Therefore, the stormwater from the compost area will travel long distances from the compost area to the stormwater/irrigation ditches. The ditches are part of the stormwater management system and are not consider surface waters. Only when the ditches are pumped to the area canals, which are jurisdictional, do water quality standards apply. The general area has the rainfall near the amount of evaporation. The farmer plans to minimize discharge from the stormwater/irrigation ditches to the area canals. If wasting the rainwater to area canals would require the farmer to either be short of irrigation water or have to supplement from other sources. This supplemental of other sources of water may not be available when needed. The internal ditches are both used to irrigate the field during crop growing periods and stormwater management during rainfall events. The composting operation will be generally conducted after the crop has been harvested and before planting for the next crop. They plan on two crops per year. When the fields are outside the growing season, the ditches are kept really dry. During the summer raining season, the crops are not growing due to too hot for corn production. During the growing season, the compost operation should be completed or just about completed. The irrigation of the fields is by raising the water level in the stormwater/irrigation ditches. The level can be isolated by working weirs in the ditch system. The level is regulated by either pumping into the storage pond or discharge from the storage pond. A small area (less than 2 acres each) along the highest elevation road beds are being planned for the composting area. There is wide area where the composting operation can occur perpendicular to the elevated roads. The compost areas will be bermed on all four sides. The compost area is higher or at the same elevation as the eastern berm that lies between the compost retention pond and the fields. This location prevents stormwater flowing into the compost area from adjacent properties. And, the drainage from the composting area will prevent wetting of the compost. Flooding the compost is not recommended as it will prevent the compost from reaching Class AA Biosolids Standards, and will be too wet for corn production. The size of each field composting area will be dependent on the availability of the biosolids and will be limited to the requirements of the adjacent fields. The compost product will replace other fertilizer that is faster leaching from the sites. The net effect will be reduction in fertilizer use and reduced discharge of nutrients to the area canals. The complete management of the compost will be contained in the facilities operation and maintenance (O & M) manual that is require prior to startup. Any changes in the operation would require updating of the O & M Manual.

2. SUMMARY OF SURFACE WATER DISCHARGE

This facility does not discharge to surface waters. South Florida Water Management District has issued Stormwater Permit 56-00111-S

3. DISCUSSION OF CHANGES TO PERMIT LIMITATIONS

The facility is a new BIO-SOLIDS TREATMENT FACILITY

5. BIOSOLIDS TREATMENT REQUIREMENTS

Biosolids generated by this facility may be distributed and marketed or disposed of in a Class I solid waste landfill.

See the table below for the rationale for the Class AA biosolids limits and monitoring requirements.

Parameter	Units	Max/ Min	Limit	Statistical Basis	Rationale
Nitrogen, Sludge, Tot, Dry Wt (as N)	percent	Max	Report	Monthly Average	62-640.650(3)(a)3. FAC
Phosphorus, Sludge, Tot, Dry Wt (as P)	percent	Max	Report	Monthly Average	62-640.650(3)(a)3. FAC
Potassium, Sludge, Tot, Dry Wt (as K)	percent	Max	Report	Monthly Average	62-640.650(3)(a)3. FAC
Arsenic Total, Dry Weight, Sludge	mg/kg	Max	75.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Arsenic Total, Dry Weight, Sludge	mg/kg	Max	41.0	Monthly Average	62-640.700(5)(b) & 650(3)(a)3. FAC
Cadmium, Sludge, Tot, Dry Weight (as Cd)	mg/kg	Max	85.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Cadmium, Sludge, Tot, Dry Weight (as Cd)	mg/kg	Max	39.0	Monthly Average	62-640.700(5)(b) & 650(3)(a)3. FAC
Copper, Sludge, Tot, Dry Wt. (as Cu)	mg/kg	Max	4300.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Copper, Sludge, Tot, Dry Wt. (as Cu)	mg/kg	Max	1500.0	Monthly Average	62-640.700(5)(b) & 650(3)(a)3. FAC
Lead, Dry Weight, Sludge	mg/kg	Max	840.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Lead, Dry Weight, Sludge	mg/kg	Max	300.0	Monthly Average	62-640.700(5)(b) & 650(3)(a)3. FAC
Mercury, Dry Weight, Sludge	mg/kg	Max	57.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Mercury, Dry Weight, Sludge	mg/kg	Max	17.0	Monthly Average	62-640.700(5)(b) & 650(3)(a)3. FAC
Molybdenum, Dry Weight, Sludge	mg/kg	Max	75.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Nickel, Dry Weight, Sludge	mg/kg	Max	420.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Nickel, Dry Weight, Sludge	mg/kg	Max	420.0	Monthly Average	62-640.700(5)(b) & 650(3)(a)3. FAC
Selenium Sludge Solid	mg/kg	Max	100.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Selenium Sludge Solid	mg/kg	Max	100.0	Monthly Average	62-640.700(5)(b) & 650(3)(a)3. FAC
Zinc, Dry Weight, Sludge	mg/kg	Max	7500.0	Single Sample	62-640.700(5)(a) & 650(3)(a)3. FAC
Zinc, Dry Weight, Sludge	mg/kg	Max	2800.0	Monthly Average	62-640.700(5)(b) & 650(3)(a)3. FAC
pH	s.u.	Max	Report	Single Sample	62-640.650(3)(a)3. FAC
Solids, Total, Sludge, Percent	percent	Max	Report	Single Sample	62-640.650(3)(a)3. FAC
Solids, Total, Sludge, Percent	percent	Max	Report	Monthly Average	62-640.650(3)(a)3. FAC
Coliform, Fecal	MPN/g	Max	1000.0	Single Sample	62-640.600(1)(a) FAC
Salmonella Sludge	MPN/4g	Max	3.0	Single Sample	62-640.600(1)(a) FAC
Monitoring Frequency	All Parameters				62-640.650(3)(a)4. & .850(4)(c) FAC
Pathogen and vector attraction reduction monitoring	All Parameters				62-640.600 & 650(3)(a)1. FAC

See the table below for the rationale for the biosolids quantities monitoring requirements.

Parameter	Units	Max/ Min	Limit	Statistical Basis	Rationale
Biosolids Quantity (Landfilled)	dry tons	Max	Report	Monthly Total	62-640.650(5)(a)1. FAC
Biosolids Quantity (Distributed & Marketed outside FL)	dry tons	Max	Report	Monthly Total	62-640.650(5)(a)1. & 850(4)(a) FAC
Biosolids Quantity (Distributed & Marketed in FL)	dry tons	Max	Report	Monthly Total	62-640.650(5)(a)1. & 850(4)(a) FAC
Biosolids Quantity (Receive)	dry tons	Max	Report	Monthly Total	62-640.650(5)(a)1. & 850(4)(a) FAC
Monitoring Frequency	All Parameters				62-640.650(5)(a) FAC

6. GROUND WATER MONITORING REQUIREMENTS

This section is not applicable to this facility.

7. PERMIT SCHEDULES

a. The following self-improvement actions (the following schedule is not a compliance schedule) are planned by the Permittee according to the following schedule:

Improvement Action	Completion Date
1. Completion of construction of composting facility	July 1, 2020

b. Prior to placing the new facilities into operation or any individual unit processes into operation, for any purpose other than testing for leaks and equipment operation, the Permittee shall complete and submit to the Department DEP Form 62-620.910(12), Notification of Completion of Construction for Wastewater Facilities or Activities. [62-620.410(7)]

c. Within six months after a facility is placed in operation, the permittee shall provide written certification to the Department on Form 62-620.910(13) that record drawings pursuant to Chapter 62-620, F.A.C., and that an operation and maintenance manual pursuant to Chapters 62-600 and 62-610, F.A.C., as applicable, are available at the location specified on the form. [62-620.410(6) and 62-620.630(7)]

9. ADMINISTRATIVE ORDERS (AO) AND CONSENT ORDERS (CO)

This permit is not accompanied by an AO and has not entered into a CO with the Department.

10. REQUESTED VARIANCES OR ALTERNATIVES TO REQUIRED STANDARDS

No variances were requested for this facility.

11. THE ADMINISTRATIVE RECORD

The administrative record including application, draft permit, fact sheet, public notice (after release), comments received and additional information is available for public inspection during normal business hours at the location specified in item 13. Copies will be provided at a minimal charge per page.

12. PROPOSED SCHEDULE FOR PERMIT ISSUANCE

Notice of Intent to Issue	May 8, 2017
Publication	May 15, 2017

13. DEP CONTACT

Additional information concerning the permit and proposed schedule for permit issuance may be obtained during normal business hours from:

Bruce Kay
Engineer II
Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406-3007
Telephone No.: (561) 681-6695

Exhibit "B"



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

May 24, 2019

Patrick Cheney
5101 Minute Maid Road
Ft. Pierce, FL 34945

Subject: Notice of Proposed Agency Action to Deny
Environmental Resource Permit Application No.: 180613-16
Project Name: Sunbreak Farms
St. Lucie County

Dear Mr. Cheney:

On September 14, 2018 and January 11, 2019, the South Florida Water Management District ("District") sent you Requests for Additional Information (RAIs) requiring either the submittal of a monitoring plan or an alternative to demonstrate that the proposed pollution abatement practices function properly and meet the objectives of Section 4.9.3, Vol. II of the Applicant's Handbook. The District received a letter from your counsel on April 4, 2019, advising that no monitoring plan or other alternative will be provided and requesting that the District determine the application complete.

Attached is the District's Proposed Agency Action to deny the application, without prejudice to your right to reapply later. Absent further action by you, this denial will be final June 3, 2019.

Alternatively, you may withdraw your application prior to final agency action. If you choose to withdraw your application, the District will apply the submitted processing fee for this application to a new application filed within 365 days, as specified in Rule 5.5.3.7, Environmental Resource Applicant's Handbook Vol. I.

If you wish to refer the application and Proposed Agency Action to the Governing Board for final agency action, a written request must be received on or before May 31, 2019. The application and Proposed Agency Action will then be considered at the June Governing Board meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Creech".

Jill S. Creech, P.E.
Division Director, Regulation

Enclosures: Proposed Agency Action/Staff Report
Notice of Rights

C: David Baggett, P.E., Engineering Design & Construction, Inc. (via Email)
Kim Graham, P.E., St. Lucie County Public Works (via Email)
David Dee, Esq., Gardner, Bist, Bowden, Bush, Dee, Lavia & Wright, P.A. (via Email)
Dylan Reingold, Esq., Indian River County (via Email)
State Rep. Larry Lee, Jr. (via Email)
Cammie Dewey, P.E., St. John's River Water Management District (via Email)
Virginia P. Sherlock on behalf of PGA Village Property Owners Association, Inc. (via Email)
Dennis Corrick, Esq. (via Email)

NOTICE OF RIGHTS

As required by Sections 120.569 and 120.60(3), Fla. Stat., the following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all of the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a SFWMD decision which affects or may affect their substantial interests shall file a petition for hearing with the Office of the District Clerk of the SFWMD, in accordance with the filing instructions set forth herein, within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, or posting that the SFWMD has or intends to take final agency action, or publication of notice that the SFWMD has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action which materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional Rule 28-106.111, Fla. Admin. Code, point of entry.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Fla. Stat., shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

FILING INSTRUCTIONS

A petition for administrative hearing must be filed with the Office of the District Clerk of the SFWMD. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at SFWMD headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.

- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the SFWMD's security desk does not constitute filing. It will be necessary to request that the SFWMD's security officer contact the Office of the District Clerk. An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at clerk@sfwmd.gov. The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document. A party who files a document by e-mail shall (1) represent that the original physically signed document will be retained by that party for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause and that the party shall produce it upon the request of other parties; and (2) be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed.

INITIATION OF AN ADMINISTRATIVE HEARING

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Fla. Stat., and Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, SFWMD file number or any other SFWMD identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

MEDIATION

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401–.405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Section 120.68, Fla. Stat., and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal with the Office of the District Clerk of the SFWMD in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the clerk of the appropriate district court of appeal.

DRAFT

Last Date For Agency Action: June 3, 2019

INDIVIDUAL ENVIRONMENTAL RESOURCE DENIAL STAFF REPORT

Project Name: Sunbreak Farms

Permit No.: 56-00111-S

Application No.: 180613-16

Application Type: Environmental Resource (Construction/Operation Modification)

Location: St Lucie County, S28, 33, 34/T33S/R38E
S3,4,5,8,9,10,15,16,17,20,21,29/T34S/R38E

Applicant : Sunbreak Farms L L C

Project Area: 80.75 acres

Project Land Use: Agricultural

Drainage Basin: C-25

Receiving Body: C-25

Class: CLASS III

Special Drainage District: NA

Conservation Easement To District : No

Sovereign Submerged Lands: No

DRAFT**PROJECT SUMMARY:**

This Environmental Resource Permit application requests Construction and Operation of a stormwater management (SWM) system to serve an 80.75 acre composting operation for a project known as Sunbreak Farms.

The proposed SWM system includes the construction of containment cells that will be used for on-site composting of aerobically digested and dewatered residuals with yard debris to produce Class AA compost pursuant to Florida Department of Environmental Protection Permit No. FLA979830. The Class AA compost material will be used onsite as a soil amendment and fertilizer for the existing agricultural production of row crops pursuant to Chapter 62-640 F.A.C. Please refer to the composting cell construction plans Exhibit 2.0 for details.

The applicant has not provided reasonable assurances that the project will not result in adverse impacts to water resources. The applicant did not provide the requested water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design of the stormwater management system will function properly as required by Section 4.9.3, Volume II of the Applicant's Handbook.

Staff is recommending denial of the application pursuant to the conditions of issuance Chapter 62-330.301 F.A.C. Specifically, the applicant has not demonstrated that construction, operation and maintenance of the project:

(e) Will not adversely affect the quality of receiving waters such that the state water quality standards set forth in chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated.

DRAFT**PROJECT EVALUATION:****PROJECT SITE DESCRIPTION:**

Refer to Exhibit 1.0 for a Location Map. The project is approximately 2.25 miles west of Interstate 95, north of the Florida Turnpike in St. Lucie County.

The site consists of existing row crops located within an agricultural project previously known as Cloud Grove. The majority of the property is located in St. Lucie County with the northern portion in Indian River County. The property includes a 640 acre above ground impoundment (AGI) used for storage of storm water for irrigation and flood protection. The AGI outfalls into an adjacent ditch that discharges to the C-25 Canal pursuant to Permit No. 56-00111-S. The SWM system also has the ability to discharge stormwater to the Minute Maid Canal, which discharges to the C-25 Canal.

BACKGROUND:

On October 19, 1978, the District authorized the operation (Application Nos. 21917, 21918, 21921) of an above ground impoundment for irrigation and flood protection of a 6,560 acre agricultural project known as Cloud Grove.

On June 29, 2006, the District authorized a permit transfer (Application No. 060127-19) to Florida Conservancy and Development Group LLC.

WATER QUANTITY :

The proposed operation of the SWM system associated with the composting containment cells includes a protocol to maintain the water table 1 foot below the lowest grade of the containment cells during composting.

Discharge Rate :

The project is located within the C-25 Basin which has a 10 year, 3 day design storm. The previously permitted design storm discharge rate remains unchanged.

The composting containment cells will retain 11.0 inches of rainfall within the cells associated with the 100 year, 3 day design storm event. Thus, the existing SWM system and 640-acre above ground impoundment will not receive storm water runoff from the composting area associated with 10 year, 3 day C-25 Basin design storm event.

The applicant provided an annual storm water runoff analysis which indicates the annual volume of storm water runoff will be reduced. The proposed project is intended to result in less annual storm water runoff volume and a reduction in the peak rate of storm water runoff from design storm event resulting in less discharge from the SWM system.

DRAFT**WATER QUALITY :**

The applicant has provided the following:

- 1) The proposed project area will retain 11.0 inches (74 ac-ft) of storm water runoff from the 80.75 acre composting containment cells associated with the 100 year, 3 day design storm event.
- 2) The applicant provided a water quality analysis based on the proposed agronomic practices.

The applicant has not provided the requested water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design of the SWM system will function properly. Section 4.9.3, Volume II of the Applicant's Handbook provides for requiring water quality monitoring for two reasons: 1) such data can be used to determine if the pollution abatement practices incorporated into the design for SWM system are functioning properly, 2) In some cases there may be a real and immediate concern regarding degradation of quality in the receiving waters, regardless of the apparent pollutant removal efficiency of the SWM system.

The intent of the water quality monitoring plan and reporting schedule is to develop sets of data that can be analyzed to determine if pollution abatement practices are functioning properly after the implementation of the biosolids composting activity at Sunbreak Farms. The water quality monitoring plan and reporting schedule should include, at a minimum: an explanation of how the proposed program will achieve valid measurements of flow, bacteria, nitrogen, phosphorus, and dissolved oxygen concentration; description of monitoring sites which should include on-site and off-site locations; sample collection methods, technique, preservation, identification and schedules; description of laboratory facilities, analyses, reporting delivery and data review; and other items as necessary to determine if the pollution abatement practices incorporated into the design are functioning properly and will prevent water quality degradation. The plan and schedule should be implemented at least six (6) months prior to the deliveries of biosolids to the site. The proposed plan should also include the recordation of pumped discharges (times, rates, and durations) from all stormwater discharge facilities located on the farm site. A time period for the monitoring and reporting should be defined within the plan, to be no less than five years. The plan and schedule must be submitted to the District for review and approval, prior to implementation.

WETLANDS:**Wetlands And Other Surface Waters:**

There are no wetlands or other surface waters located within the project area or affected by this project.

DRAFT

RELATED CONCERNS:

Third Party Interest:

The following third parties have contacted the District with concerns about this application:

St. Lucie County
Indian River County
St. Johns River Water Management District
State Representative Larry Lee, Jr.
David Dee, Esq.
PGA Village Property Owners Association, Virginia Sherlock Esq.

District staff have coordinated several meetings with the applicant and the third parties to address questions and concerns.

Enforcement:

There has been no enforcement activity associated with this application.

DRAFT**STAFF RECOMMENDATION TO EXECUTIVE DIRECTOR:**

The Staff recommends the following:

Denial of the application for Construction and Operation of a stormwater management system serving an 80.75 acre composting operation for a project known as Sunbreak Farms.

STAFF REVIEW:**NATURAL RESOURCE MANAGEMENT APPROVAL****ENVIRONMENTAL EVALUATION****SUPERVISOR**

Jessica Huffman

Barbara J. Conmy

SURFACE WATER MANAGEMENT APPROVAL**ENGINEERING EVALUATION****SUPERVISOR**

Glen J. Gareau, P.E.

Gary Priest, P.E.

ENVIRONMENTAL RESOURCE COMPLIANCE BUREAU CHIEF :

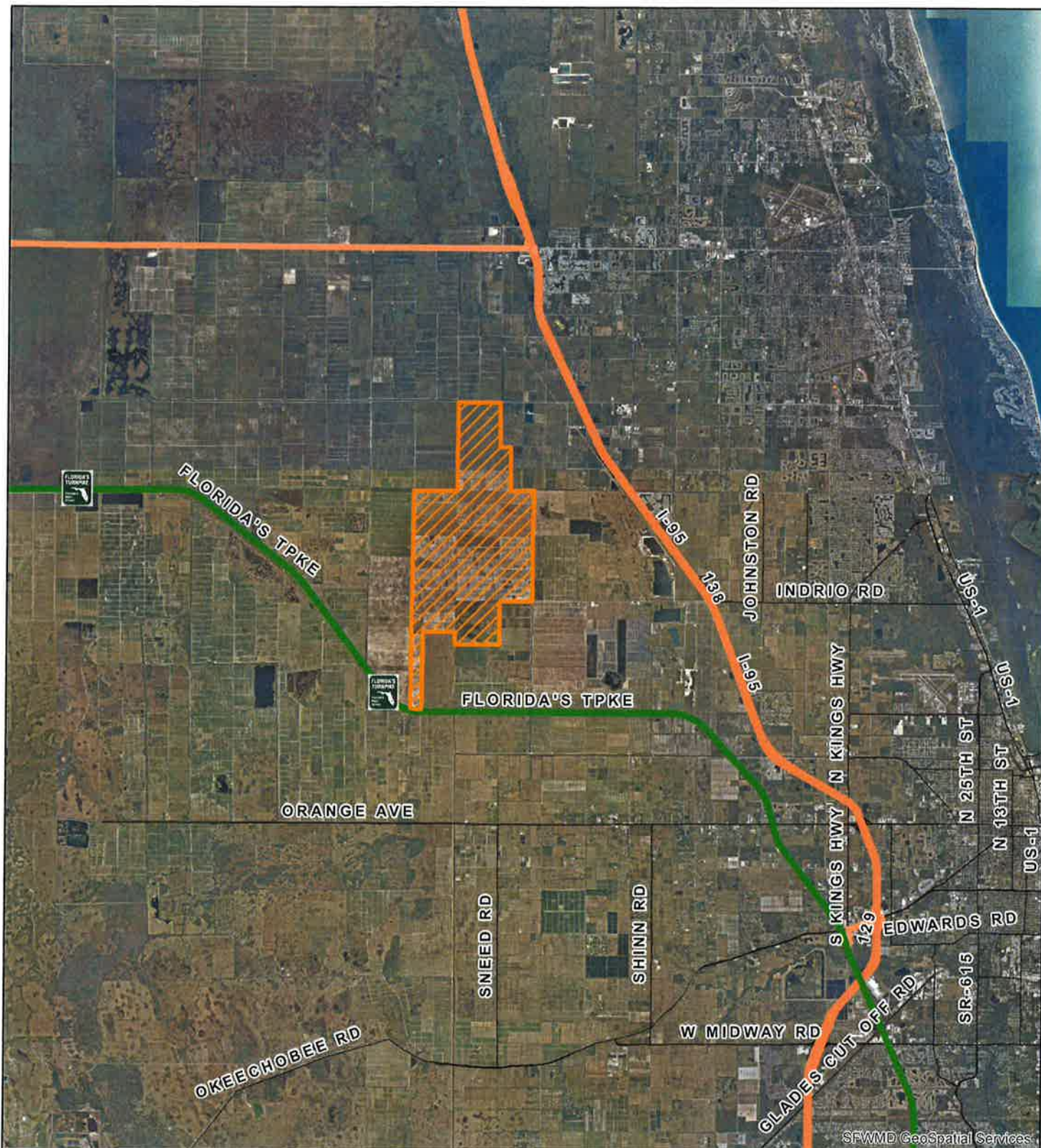
Ricardo A. Valera, P.E.

DATE: _____

REGULATION DIVISION ASSISTANT DIRECTOR :

Anthony M. Waterhouse, P.E.

DATE: _____



SFWMD GeoSpatial Services

Exhibit No: 1

Exhibit Created On:
2018-07-17

ST. LUCIE COUNTY, FL

REGULATION DIVISION

Project Name: SUNBREAK FARMS



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Miles



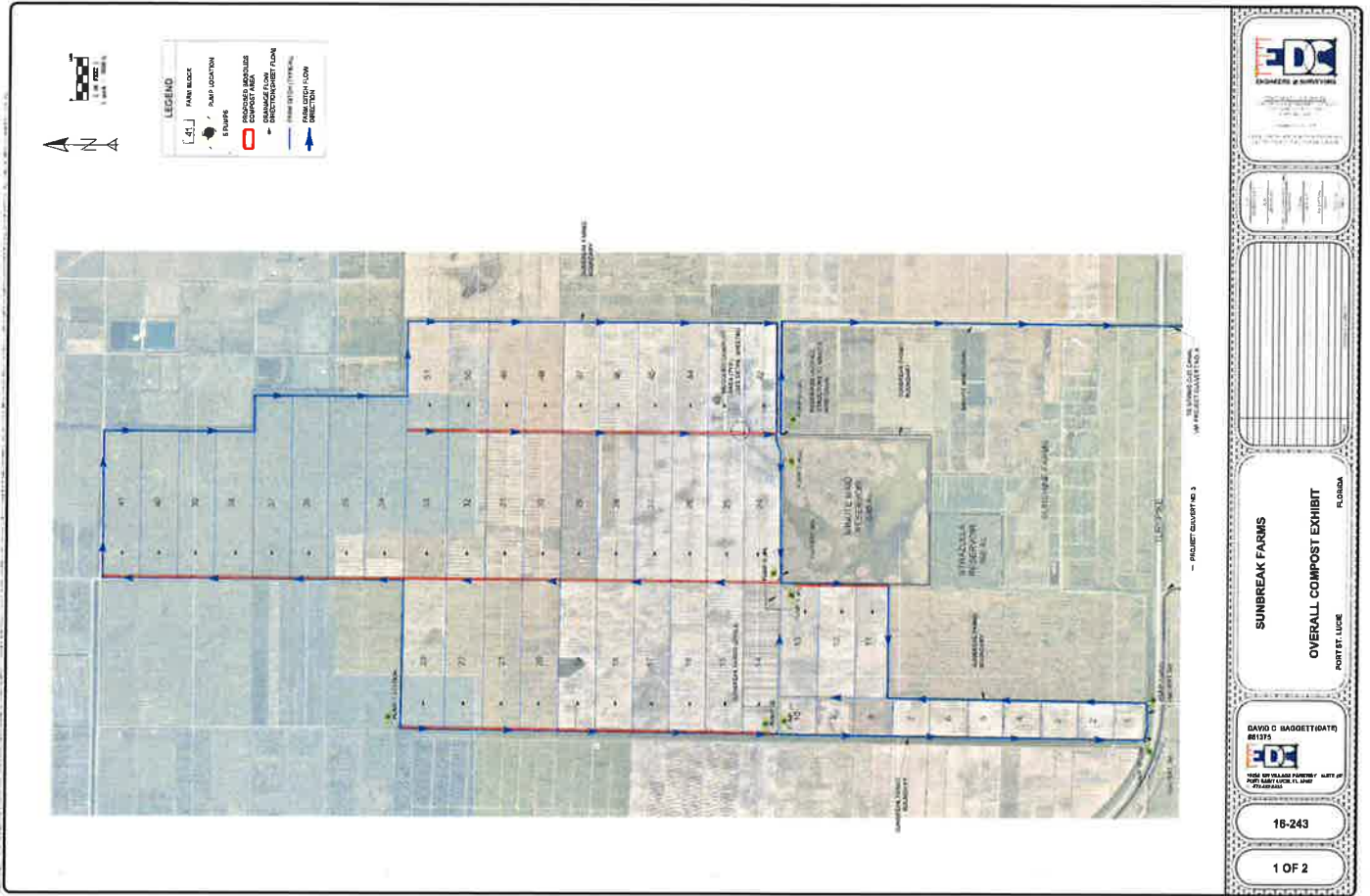
Application

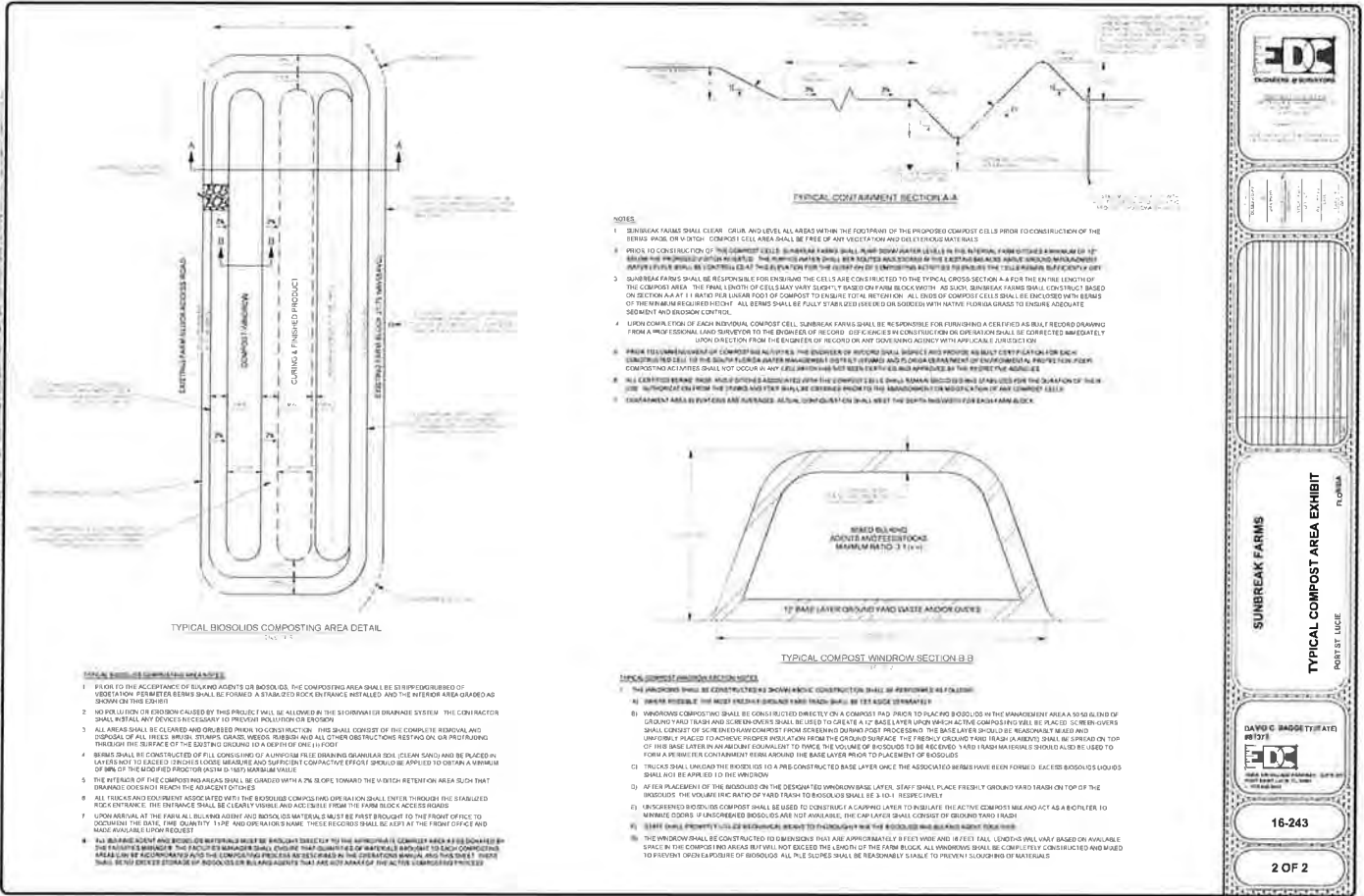
Permit No: 56-00111-S


Application Number: 180613-16



South Florida Water Management District







SUNBREAK FARMS

16-243

2 OF 2


TYPICAL COMPOST AREA EXHIBIT

POINT ST. LUCE

FLORIDA

DAVID C. BAGGETT, P.E.

00173



STAFF REPORT DISTRIBUTION LIST

SUNBREAK FARMS

Application No: 180613-16

Permit No: 56-00111-S

INTERNAL DISTRIBUTION

- X Glen J. Gareau, P.E.
- X Jessica Huffman
- X Gary Priest, P.E.
- X Barbara J. Conmy
- X Tony Waterhouse, P.E.
- X Randy Smith
- X Susan Martin
- X Ansley Marr
- X Jill Creech, P.E.

EXTERNAL DISTRIBUTION

- X Permittee - Sunbreak Farms L L C
- X Engr Consultant - Engineering Design & Construction Inc
- X Other Interested Party - Gardner, Bist, Bowden, Bush, Dee, Lavia & Wright, P.A.
- X Other Interested Party - Indian River County
- X Other Interested Party - Pga Village Poa Inc.
- X Other Interested Party - State Rep.

GOVERNMENT AGENCIES

- X City of Port St Lucie - Planning Div
- X City of Port St Lucie - Public Works
- X St. Lucie County Engineer
- X St. Lucie County Planning and Development Services
- X US Army Corps of Engineers Permit Section

Exhibit "C"

OPERATING AGREEMENT CONCERNING REGULATION UNDER PART IV, CHAPTER 373, F.S.,

BETWEEN
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
AND
DEPARTMENT OF ENVIRONMENTAL PROTECTION

I. INTENT

The South Florida Water Management District (DISTRICT) and the State of Florida Department of Environmental Protection (DEPARTMENT) enter into this operating agreement to further streamline environmental permitting, while protecting the environment. This agreement divides responsibility between the DISTRICT and the DEPARTMENT for the exercise of their authority regarding permits, compliance, and enforcement under Part IV, Chapter 373, F.S. This agreement also divides responsibility between the DISTRICT and DEPARTMENT regarding formal wetland determinations pursuant to Subsection 373.421(2) through (5), F.S. It is a goal of this agreement that the division of responsibilities provide no reduction in levels of compliance monitoring and enforcement and, where possible, allow increased levels of compliance monitoring and enforcement.

This agreement supersedes the following agreements: Operating Agreement concerning Management and Storage of Surface Waters Regulation, and Wetland Resource Regulation between South Florida Water Management District and Department of Environmental Regulation, dated October 27, 1992; and First Amendment to October 27, 1992 Operating Agreement concerning Management and Storage of Surface Waters Regulation, and Wetland Resource Regulation between South Florida Water Management District and Department of Environmental Regulation, dated January 18, 1994 and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., between South Florida Water Management District and Department of Environmental Protection dated August 11, 1994; and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., and Aquaculture General Permits under Section 403.814, F.S., between South Florida Water Management District and Department of Environmental Protection dated October 27, 1998 and incorporated by reference into the Basis of Review for Environmental Resource Permits in December 1998.

As a future step to further increase the efficiency and effectiveness of environmental permitting, the DEPARTMENT and the DISTRICT shall jointly pursue further integration and streamlining of federal and state wetlands regulations.

II. RESPONSIBILITIES OF DISTRICT AND DEPARTMENT

A. DEPARTMENT Responsibilities

1. Permits and Variances

The DEPARTMENT shall review and take final action on all applications for permits and petitions for variances, under Part IV, Chapter 373, F.S., and variances or waivers under Section 120.542, F.S., for the project types listed in a. through t. below. The permit applications encompassed within the DEPARTMENT's responsibilities hereunder include those submitted for wetland resource (dredge and fill) permits and management and storage of surface water (MSSW) permits, pursuant to Subsection 373.414(11) through (16), F.S., as well as those submitted for environmental resource permits.

a. All solid waste management facilities that require a permit under Chapter 403, F.S. However, the DISTRICT shall review and take final action on permit applications when the solid waste management facility qualifies for a solid waste general permit and is merely an incidental component of a project for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1 of this agreement.

b. Hazardous waste facilities that require a permit under Chapter 403, F.S. However, the DISTRICT shall review and take final action on permit applications when the storage of hazardous waste is merely an incidental component of a project for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1. of this agreement.

c. Domestic or industrial wastewater treatment, storage, transmission, effluent disposal, or water reuse facilities that require a permit under Chapter 403, F.S., This includes: all facilities and activities located at the domestic or industrial wastewater treatment facility; all reuse sites permitted under Parts II or IV of Chapter 62-610, F.A.C.; land application sites permitted under Part VI of Chapter 62-610, F.A.C.; and wetlands created using reclaimed water (from domestic wastewater or industrial wastewater sources). However, the DISTRICT shall review and take final action on permit applications for:

(1) Water reuse sites permitted under Part III of Chapter 62-610, F.A.C.; such as facilities for the storage and application of reclaimed water to irrigate crops, golf courses, or other landscapes;

(2) Activities involving the application of reclaimed water to rehydrate wetlands or to provide artificial recharge to reduce or mitigate drawdown impacts due to well withdrawals;

(3) Those facilities that are subject to any of the requirements of Chapters 40E-4, 40E-40, 40E-41, F.A.C., through a system or activity which is not fully contained on the domestic or industrial wastewater facility site, but which is part of a larger project

for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1. of this agreement;

(4) Those facilities that qualify for a general or generic permit pursuant to Rules 62-660.801, F.A.C. (General Permit for a Wastewater Disposal System for a Laundromat, 62-660.802, F.A.C. (General Permit for a Pesticide Waste Degradation Systems), 62-660.803, F.A.C. (General Permit for Car Wash Systems), 62-660.805, F.A.C. (General Permit for Disposal of Tomato Wash, or 62-621.300(2), F.A.C. (Generic Permit for Discharge of Produced Ground Water from any Non-Contaminated Site Activity);

(5) Those facilities in which the industrial wastewater component is merely an HVAC (heating, ventilation, and air conditioning) cooling tower discharge, or other industrial wastewater treatment facility which is merely an incidental component of a project for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1. of this agreement.

d. Potable water facilities that require a permit under Chapter 403, F.S. This includes drinking water treatment plants as well as distribution mains. However, the DISTRICT shall review and take final action on permit applications for distribution lines that are fully contained within systems for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1. of this agreement;

e. All mines, as defined in Chapter 378, F.S. However, the DISTRICT shall review and take final action on permit applications for sand, shell, and clay (other than fuller's earth) mines that do not involve processing other than use of a scalping screen to remove large rocks, wood, and debris;

f. Power plants and electrical distribution and transmission lines and other facilities related to the production, transmission and distribution of electricity. However, the DISTRICT shall review and take final action on electrical distribution lines fully contained within any larger plan of development for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1 of this agreement;

g. Communication cables and lines. However, the DISTRICT shall review and take final action on communication cables and lines fully contained within any larger plan of development for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1. of this agreement;

h. Natural gas or petroleum exploration, production, and distribution activities and facilities, product pipelines, and other facilities related to the exploration, production, and distribution of natural gas and petroleum. However, the DISTRICT shall review and take final action on natural gas distribution lines fully contained within any larger plan of development for which the DEPARTMENT does not review and take final

action on permit applications under any other paragraph in Section II.A.1. of this agreement;

i. Docking facilities, boardwalks, shore protection structures and piers, including the adjacent docking and boating related development and navigational dredging. Adjacent docking and boating related development includes parking areas for the docking facility, dry storage facilities, boat sale and supply facilities, maintenance and repair facilities, associated seafood loading and processing facilities, restaurants, harbor master and marina administration facilities. Residential development and other commercial development are not considered docking or boating related. The DISTRICT shall review and take final action on permit applications for all docking facilities, boardwalks, shore protection structures and piers, including adjacent docking and boating related development and navigational dredging, whenever such facilities are part of a larger plan of other commercial or residential development that has received or requires a permit under Part IV of Chapter 373, F.S. The DISTRICT shall also review and take final action on all docking facilities, boardwalks, shore protection structures and piers, including adjacent docking and boating related development and navigational dredging, that are associated with a no-notice general permit under section 40E-400.315, F.A.C. The DISTRICT shall also review and take final action on permit applications for any docking facility, boardwalk, shore protection structure, or pier serving a dwelling unit which is the responsibility of the DISTRICT to review under paragraph n. ;

j. Systems proposed in whole or in part seaward of point 50 feet above the mean high water line at any riparian coastal location fronting the Gulf of Mexico shoreline, exclusive of bays, inlets, rivers, bayous, creeks, passes, and the like. In Monroe, Martin and Collier Counties, where a CCCL has not been established, systems along sandy, non-vegetated shorelines proposed in whole or in part seaward of a point 50 feet above the mean high water line at any riparian coastal location fronting the Gulf of Mexico or Atlantic coast shoreline of the state, exclusive of bays, inlets, rivers, bayous, creeks, passes, and the like;

k. Projects constructed, operated or maintained by the DISTRICT; however, activities of the DISTRICT permitted under Sections 403.91 through 403.929, F.S., or the rules adopted pursuant to those statutes, and activities of the DISTRICT which did not require a permit under such statutes or rules, shall not require a permit under Part IV of Chapter 373, F.S., provided such activities are part of a project which was commenced prior to October 3, 1995. However, the District shall review and take final action on applications pertaining to restoration or enhancement activities conducted on District owned land when the activities are proposed by and will be implemented by a party other than the District as site-specific mitigation for all or part of that party's permit application, notwithstanding that operation and maintenance of the completed activity will be the responsibility of the District;

l. Navigational dredging conducted by governmental entities except where associated with a larger project that is otherwise the responsibility of the DISTRICT for

review and final action, and all activities conducted by the U.S. Army Corps of Engineers;

m. Seaports and adjacent seaport related development where the applicant or property owner is a port authority as defined in Subsection 315.02(2), F.S.;

n. A system serving or consisting of up to three contiguous parcels of land under single ownership, where each parcel contains or is proposed to contain only one single family dwelling unit, duplex, triplex, or quadruplex (hereinafter referred to as a dwelling unit), except where the dwelling unit is only an incidental part of a parcel that is otherwise used for agricultural activities for which a permit has been issued or is required under Part IV, Chapter 373, F.S.

o. The following systems in wetlands or other surface waters when they are not part of a larger plan of development for which the DISTRICT reviews and takes final agency action under any other paragraph of this agreement: boat ramps, ski jumps, ski slalom courses, aids to navigation, mooring buoys and fields, piling supported structures which are not physically connected to uplands, aquatic plant management activities regulated under Chapter 369, F.S., fish, attractors, artificial reefs, treasure salvage, archeological research or exploration, and removal of organic detrital material;

p. Temporary systems proposed for commercial film productions;

q. High speed rail facilities under Sections 341.8201 - through 341.842, F.S.;

r. Aquaculture activities not exempt pursuant to Subsection 373.406(8), F.S.;
and

s. All activities on sovereignty submerged lands leased by the Division of Recreation and Parks, except those proposed by the DEPARTMENT.

2. Formal Determinations

The DEPARTMENT shall review and take final action on petitions for formal determinations of the extent of wetlands and other surface waters pursuant to Section 373.421, F.S., filed by entities regarding properties on which they propose to undertake activities for which the DEPARTMENT would have permitting responsibility under this agreement.

The DEPARTMENT shall provide the DISTRICT with copies of formal determinations of the extent of wetlands or other surface waters issued by the DEPARTMENT.

3. Mitigation Banks and Regional Offsite Mitigation Area Agreements (ROMA)

The DEPARTMENT shall review and take final action on all permit applications for mitigation banks and ROMA agreement proposals, under Sections 373.4135 and 373.4136, F.S., filed by one of the following:

- a. Entities proposing to use DISTRICT-owned lands;
- b. Governmental entities, excluding the DEPARTMENT, solely to offset impacts of single-family dwelling units, pursuant to Subsection 373.4135(6), F.S., for which the DEPARTMENT reviews and takes final action under Section II.A.1. of this agreement; and
- c. The DISTRICT.

B. DISTRICT Responsibilities

1. The DISTRICT shall review and take final action on all applications for permits, petitions for variances, and petitions for formal determination under Part IV, Chapter 373, F.S., variances and waivers under Section 120.542, F.S., except for those identified as the DEPARTMENT's responsibility under this agreement, and except as provided in Section II.E of this agreement. The permit applications encompassed within the DISTRICT's responsibility hereunder include those submitted for wetland resource permits and MSSW permits under Subsection 373.414(11) through (16), F.S., as well as those submitted for environmental resource permits.
2. The DISTRICT shall review and take action on projects constructed, operated or maintained by the DEPARTMENT. However, activities of the DEPARTMENT permitted under Section 403.91-403.929, F.S., or the rules adopted pursuant to those statutes, and activities of the DEPARTMENT which did not require a permit under such statutes or rules, shall not require a permit under Part IV of Chapter 373, F.S., provided such activities are part of a project which was commenced prior to October 3, 1995.
3. The DISTRICT shall provide the DEPARTMENT with copies of formal determinations of the extent of wetlands or other surface waters issued by the DISTRICT.

C. Incorrectly Submitted Applications And Petitions; Modifications

1. Permit applications, petitions for variances or waivers, and petitions for formal determinations submitted to the incorrect agency pursuant to the terms of this agreement shall be forwarded to the correct agency for further processing within 10 days of receipt, except where the agencies mutually agree that the application may be retained by the incorrect agency, in which case a special case agreement shall be executed in accordance with Section II.D of this agreement. A refund of any fee submitted to the incorrect agency that does not retain processing of the application shall be made to the applicant. Prior to transferring the application, the incorrect receiving

agency shall coordinate with the proper reviewing agency and the applicant in order to inform all parties that the application has been submitted incorrectly and is being forwarded.

2. Notwithstanding section II.A. and II.B. of this agreement, permit modification requests shall be processed by the agency issuing the original permit. If the permit has been modified, the agency that issued the last modification to the permit shall process the modification. However, the following exceptions apply:

a. The DEPARTMENT shall process all modifications to permits for the following activities:

(1) Solid waste management facilities as described in Section II.A.1.a.;

(2) Mining projects as described in Section II.A.1.d, when the modification involves the addition of new lands to the permit or the expansion of mining activities into areas not previously approved for mining; and

(3) Seaports and seaport related development as described in Section II.A.1.n.

b. Alterations to stormwater systems previously authorized under Rules 17-25.040 or 62-25.040, F.A.C., shall not be considered as modifications under the provisions of this section, and shall be processed by the agency that would have responsibility for reviewing and taking final agency action on the system under Sections II.A. and B. of this agreement.

D. Special Cases

By written agreement between the DISTRICT and the DEPARTMENT, responsibilities may deviate from the responsibilities outlined in II.A., B., or C. above. Instances where this may occur include the following:

1. An extensive regulatory history or a proprietary interest by either the DISTRICT or the DEPARTMENT with a particular project that would make a deviation result in more efficient and effective regulation. This may include activities on lands with a conservation easement held by the other agency;

2. Simplification of the regulation of a project that crosses water management district boundaries;

3. The incorrect agency has begun processing an application or petition and transfer of the application or petition would be inefficient; or

4. Circumstances in which a deviation would result in the application or petition being more efficiently or effectively processed.

The Governing Board may delegate authority to staff to execute special case agreements.

III. DELEGATION OF AUTHORITY: MIXING ZONES, ZONES OF DISCHARGE, VARIANCES

A. The DEPARTMENT delegates authority to the DISTRICT to review and take final action on requests for zones of mixing in surface waters and zones of discharge in groundwater, in accordance with Sections 62-4.242, 62-4.244, 62-28.700, 62-522.400 and 62-522.410, F.A.C., when the requests are associated with a permit application for which the DISTRICT is responsible under the terms of this agreement.

B. The DEPARTMENT delegates the authority to the DISTRICT to take action on petitions for variances or waivers from state water quality standards in accordance with Sections 120.542 and 403.201, F.S., and Section 40C-1.1002 F.A.C., when the petition is associated with a permit application for which the DISTRICT is responsible under the terms of this agreement.

IV. COMPLIANCE MONITORING AND ENFORCEMENT

A. Division of Responsibilities

Each agency shall perform compliance monitoring on all projects for which that agency has issued a permit, consent order, final order, or for which a consent final judgment or final judgment has been entered to determine compliance with the conditions thereof and will enforce said conditions by taking appropriate enforcement action where necessary. However, if the DEPARTMENT or the DISTRICT modifies a permit previously issued by the other agency, pursuant to this agreement, the agency modifying the permit shall thereafter determine compliance with the permit and enforce all provisions or conditions of that permit.

Each agency shall investigate activities regulated under Part IV of Chapter 373, F.S. which are undertaken without the required permits, and take appropriate enforcement action, when it has permitting responsibilities for those activities under this agreement.

When a violation of Part IV of Chapter 373, F.S., also constitutes a violation of Chapters 253 or 258, F.S., and the resolution under Part IV of Chapter 373, F.S., does not resolve the violation under Chapters 253 or 258, F.S., the District shall coordinate compliance and enforcement actions with the DEPARTMENT, and shall forward a copy of the enforcement documentation generated on those violations to the DEPARTMENT for its use in addressing the violation under Chapters 253 or 258, F.S.

B. Special Cases

By written agreement between the DISTRICT and the DEPARTMENT, enforcement responsibilities for specific cases may deviate from the responsibilities outlined in Section IV.A. Instances where this may occur include:

1. The case also includes activities which may be violations of rules of the DEPARTMENT or DISTRICT that are not the subject of this agreement;
2. The case involves activities that cross water management district boundaries;
or
3. Deviation would result in the case being more effectively or efficiently handled.

The Governing Board may delegate authority to staff to execute special case agreements.

V. EMERGENCIES

In a declared emergency, pooling of staff resources and deviations from the terms of this agreement may be in the best interest of the public service and protecting or restoring property and environmental resources. Therefore, notwithstanding the divisions of responsibilities specified in this agreement, where the Governor has issued an Executive Order which declares an emergency and the DEPARTMENT and the DISTRICT have issued emergency orders to implement the Executive Order, either party to this agreement can review and take agency action on any activities regulated under Part IV of Chapter 373, F.S., that are authorized by an emergency order during the duration of the emergency orders of the DEPARTMENT and the DISTRICT.

VI. INTERAGENCY COMMITTEE

In order to seek consistency in the environmental resource permit (ERP) program and to facilitate the implementation of the DEPARTMENT's responsibilities under Subsection 373.026(7), F.S., and Section 62-340.100, F.A.C., the DEPARTMENT and DISTRICT agree to form and participate in an ERP Committee (Committee). The Committee shall meet at least twice a year, but may meet more frequently as issues arise that require interagency coordination. The Committee shall provide a forum for the DEPARTMENT and water management districts to coordinate and communicate regarding the following:

- a. Joint training efforts to maximize the use of training resources and ensure that adequate training is provided.
- b. Promotion of consistent interpretation and implementation of ERP rules.
- c. Proposed amendments to ERP rules.

- d. Development of consistent ERP compliance and enforcement.
- e. Future revisions to the DEPARTMENT and DISTRICT operating agreements regarding the ERP program.
- f. Development of a statewide ERP data set and a computer data exchange methodology.
- g. Such other activities which the committee deems necessary or desirable to achieve and maintain the goals of this agreement.


VII. EFFECTIVE DATE

A. This agreement shall take effect upon execution by both parties and adoption of rule amendments which incorporate this agreement by reference.

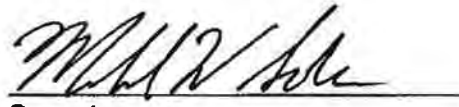
B. Applications, petitions, and enforcement cases, under Part IV of Chapter 373, F.S., which are pending on the effective date of this agreement shall continue to be processed by the agency to which application or petition was made or which initiate the enforcement case, except when the DISTRICT and the DEPARTMENT agree, and in the case of an aquaculture activity the applicant also agrees, that an application, petition or enforcement case should be transferred in order to provide for more efficient processing and enforcement. Applications and petitions received after the effective date of this agreement will be processed as described in Section II of this agreement.

AGREED TO this 10 day of May, 2007.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT


Governing Board Chair
3301 Gun Club Road
West Palm Beach, FL 33406

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Secretary
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Legal Form Approved:

BY: 

DATE: 5/10/07



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

May 24, 2019

Patrick Cheney
5101 Minute Maid Road
Ft. Pierce, FL 34945

Subject: Notice of Proposed Agency Action to Deny
Environmental Resource Permit Application No.: 180613-16
Project Name: Sunbreak Farms
St. Lucie County

Dear Mr. Cheney:

On September 14, 2018 and January 11, 2019, the South Florida Water Management District ("District") sent you Requests for Additional Information (RAIs) requiring either the submittal of a monitoring plan or an alternative to demonstrate that the proposed pollution abatement practices function properly and meet the objectives of Section 4.9.3, Vol. II of the Applicant's Handbook. The District received a letter from your counsel on April 4, 2019, advising that no monitoring plan or other alternative will be provided and requesting that the District determine the application complete.

Attached is the District's Proposed Agency Action to deny the application, without prejudice to your right to reapply later. Absent further action by you, this denial will be final June 3, 2019.

Alternatively, you may withdraw your application prior to final agency action. If you choose to withdraw your application, the District will apply the submitted processing fee for this application to a new application filed within 365 days, as specified in Rule 5.5.3.7, Environmental Resource Applicant's Handbook Vol. I.

If you wish to refer the application and Proposed Agency Action to the Governing Board for final agency action, a written request must be received on or before May 31, 2019. The application and Proposed Agency Action will then be considered at the June Governing Board meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill S. Creech".

Jill S. Creech, P.E.
Division Director, Regulation

Enclosures: Proposed Agency Action/Staff Report
Notice of Rights

C: David Baggett, P.E., Engineering Design & Construction, Inc. (via Email)
Kim Graham, P.E., St. Lucie County Public Works (via Email)
David Dee, Esq., Gardner, Bist, Bowden, Bush, Dee, Lavia & Wright, P.A. (via Email)
Dylan Reingold, Esq., Indian River County (via Email)
State Rep. Larry Lee, Jr.
Cammie Dewey, P.E., St. John's River Water Management District
Virginia P. Sherlock on behalf of PGA Village Property Owners Association, Inc.

NOTICE OF RIGHTS

As required by Sections 120.569 and 120.60(3), Fla. Stat., the following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all of the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a SFWMD decision which affects or may affect their substantial interests shall file a petition for hearing with the Office of the District Clerk of the SFWMD, in accordance with the filing instructions set forth herein, within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, or posting that the SFWMD has or intends to take final agency action, or publication of notice that the SFWMD has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action which materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional Rule 28-106.111, Fla. Admin. Code, point of entry.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Fla. Stat., shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

FILING INSTRUCTIONS

A petition for administrative hearing must be filed with the Office of the District Clerk of the SFWMD. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at SFWMD headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.

- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the SFWMD's security desk does not constitute filing. It will be necessary to request that the SFWMD's security officer contact the Office of the District Clerk. An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at clerk@sfwmd.gov. The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document. A party who files a document by e-mail shall (1) represent that the original physically signed document will be retained by that party for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause and that the party shall produce it upon the request of other parties; and (2) be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed.

INITIATION OF AN ADMINISTRATIVE HEARING

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Fla. Stat., and Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, SFWMD file number or any other SFWMD identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

MEDIATION

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-.405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Section 120.68, Fla. Stat., and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal with the Office of the District Clerk of the SFWMD in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the clerk of the appropriate district court of appeal.

DRAFT**Last Date For Agency Action:** June 3, 2019**INDIVIDUAL ENVIRONMENTAL RESOURCE DENIAL STAFF REPORT****Project Name:** Sunbreak Farms**Permit No.:** 56-00111-S**Application No.:** 180613-16**Application Type:** Environmental Resource (Construction/Operation Modification)**Location:** St Lucie County, S28, 33, 34/T33S/R38E
S3,4,5,8,9,10,15,16,17,20,21,29/T34S/R38E**Applicant :** Sunbreak Farms L L C**Project Area:** 80.75 acres**Project Land Use:** Agricultural**Drainage Basin:** C-25**Receiving Body:** C-25**Class:** CLASS III**Special Drainage District:** NA**Conservation Easement To District :** No**Sovereign Submerged Lands:** No

PROJECT SUMMARY:

This Environmental Resource Permit application requests Construction and Operation of a stormwater management (SWM) system to serve an 80.75 acre composting operation for a project known as Sunbreak Farms.

The proposed SWM system includes the construction of containment cells that will be used for on-site composting of aerobically digested and dewatered residuals with yard debris to produce Class AA compost pursuant to Florida Department of Environmental Protection Permit No. FLA979830. The Class AA compost material will be used onsite as a soil amendment and fertilizer for the existing agricultural production of row crops pursuant to Chapter 62-640 F.A.C. Please refer to the composting cell construction plans Exhibit 2.0 for details.

The applicant has not provided reasonable assurances that the project will not result in adverse impacts to water resources. The applicant did not provide the requested water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design of the stormwater management system will function properly as required by Section 4.9.3, Volume II of the Applicant's Handbook.

Staff is recommending denial of the application pursuant to the conditions of issuance Chapter 62-330.301 F.A.C. Specifically, the applicant has not demonstrated that construction, operation and maintenance of the project:

(e) Will not adversely affect the quality of receiving waters such that the state water quality standards set forth in chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated.

DRAFT**PROJECT EVALUATION:****PROJECT SITE DESCRIPTION:**

Refer to Exhibit 1.0 for a Location Map. The project is approximately 2.25 miles west of Interstate 95, north of the Florida Turnpike in St. Lucie County.

The site consists of existing row crops located within an agricultural project previously known as Cloud Grove. The majority of the property is located in St. Lucie County with the northern portion in Indian River County. The property includes a 640 acre above ground impoundment (AGI) used for storage of storm water for irrigation and flood protection. The AGI outfalls into an adjacent ditch that discharges to the C-25 Canal pursuant to Permit No. 56-00111-S. The SWM system also has the ability to discharge stormwater to the Minute Maid Canal, which discharges to the C-25 Canal.

BACKGROUND:

On October 19, 1978, the District authorized the operation (Application Nos. 21917, 21918, 21921) of an above ground impoundment for irrigation and flood protection of a 6,560 acre agricultural project known as Cloud Grove.

On June 29, 2006, the District authorized a permit transfer (Application No. 060127-19) to Florida Conservancy and Development Group LLC.

WATER QUANTITY :

The proposed operation of the SWM system associated with the composting containment cells includes a protocol to maintain the water table 1 foot below the lowest grade of the containment cells during composting.

Discharge Rate :

The project is located within the C-25 Basin which has a 10 year, 3 day design storm. The previously permitted design storm discharge rate remains unchanged.

The composting containment cells will retain 11.0 inches of rainfall within the cells associated with the 100 year, 3 day design storm event. Thus, the existing SWM system and 640-acre above ground impoundment will not receive storm water runoff from the composting area associated with 10 year, 3 day C-25 Basin design storm event.

The applicant provided an annual storm water runoff analysis which indicates the annual volume of storm water runoff will be reduced. The proposed project is intended to result in less annual storm water runoff volume and a reduction in the peak rate of storm water runoff from design storm event resulting in less discharge from the SWM system.

WATER QUALITY :

The applicant has provided the following:

- 1) The proposed project area will retain 11.0 inches (74 ac-ft) of storm water runoff from the 80.75 acre composting containment cells associated with the 100 year, 3 day design storm event.
- 2) The applicant provided a water quality analysis based on the proposed agronomic practices.

The applicant has not provided the requested water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design of the SWM system will function properly. Section 4.9.3, Volume II of the Applicant's Handbook provides for requiring water quality monitoring for two reasons: 1) such data can be used to determine if the pollution abatement practices incorporated into the design for SWM system are functioning properly, 2) In some cases there may be a real and immediate concern regarding degradation of quality in the receiving waters, regardless of the apparent pollutant removal efficiency of the SWM system.

The intent of the water quality monitoring plan and reporting schedule is to develop sets of data that can be analyzed to determine if pollution abatement practices are functioning properly after the implementation of the biosolids composting activity at Sunbreak Farms. The water quality monitoring plan and reporting schedule should include, at a minimum: an explanation of how the proposed program will achieve valid measurements of flow, bacteria, nitrogen, phosphorus, and dissolved oxygen concentration; description of monitoring sites which should include on-site and off-site locations; sample collection methods, technique, preservation, identification and schedules; description of laboratory facilities, analyses, reporting delivery and data review; and other items as necessary to determine if the pollution abatement practices incorporated into the design are functioning properly and will prevent water quality degradation. The plan and schedule should be implemented at least six (6) months prior to the deliveries of biosolids to the site. The proposed plan should also include the recordation of pumped discharges (times, rates, and durations) from all stormwater discharge facilities located on the farm site. A time period for the monitoring and reporting should be defined within the plan, to be no less than five years. The plan and schedule must be submitted to the District for review and approval, prior to implementation.

WETLANDS:**Wetlands And Other Surface Waters:**

There are no wetlands or other surface waters located within the project area or affected by this project.

DRAFT**RELATED CONCERNS:****Third Party Interest:**

The following third parties have contacted the District with concerns about this application:

St. Lucie County
Indian River County
St. Johns River Water Management District
State Representative Larry Lee, Jr.
David Dee, Esq.
PGA Village Property Owners Association, Virginia Sherlock Esq.

District staff have coordinated several meetings with the applicant and the third parties to address questions and concerns.

Enforcement:

There has been no enforcement activity associated with this application.

DRAFT**STAFF RECOMMENDATION TO EXECUTIVE DIRECTOR:**

The Staff recommends the following:

Denial of the application for Construction and Operation of a stormwater management system serving an 80.75 acre composting operation for a project known as Sunbreak Farms.

STAFF REVIEW:**NATURAL RESOURCE MANAGEMENT APPROVAL****ENVIRONMENTAL EVALUATION****SUPERVISOR**

Jessica Huffman

Barbara J. Conmy

SURFACE WATER MANAGEMENT APPROVAL**ENGINEERING EVALUATION****SUPERVISOR**

Glen J. Gareau, P.E.

Gary Priest, P.E.

ENVIRONMENTAL RESOURCE COMPLIANCE BUREAU CHIEF :

Ricardo A. Valera, P.E.

DATE: _____

REGULATION DIVISION ASSISTANT DIRECTOR :

Anthony M. Waterhouse, P.E.

DATE: _____

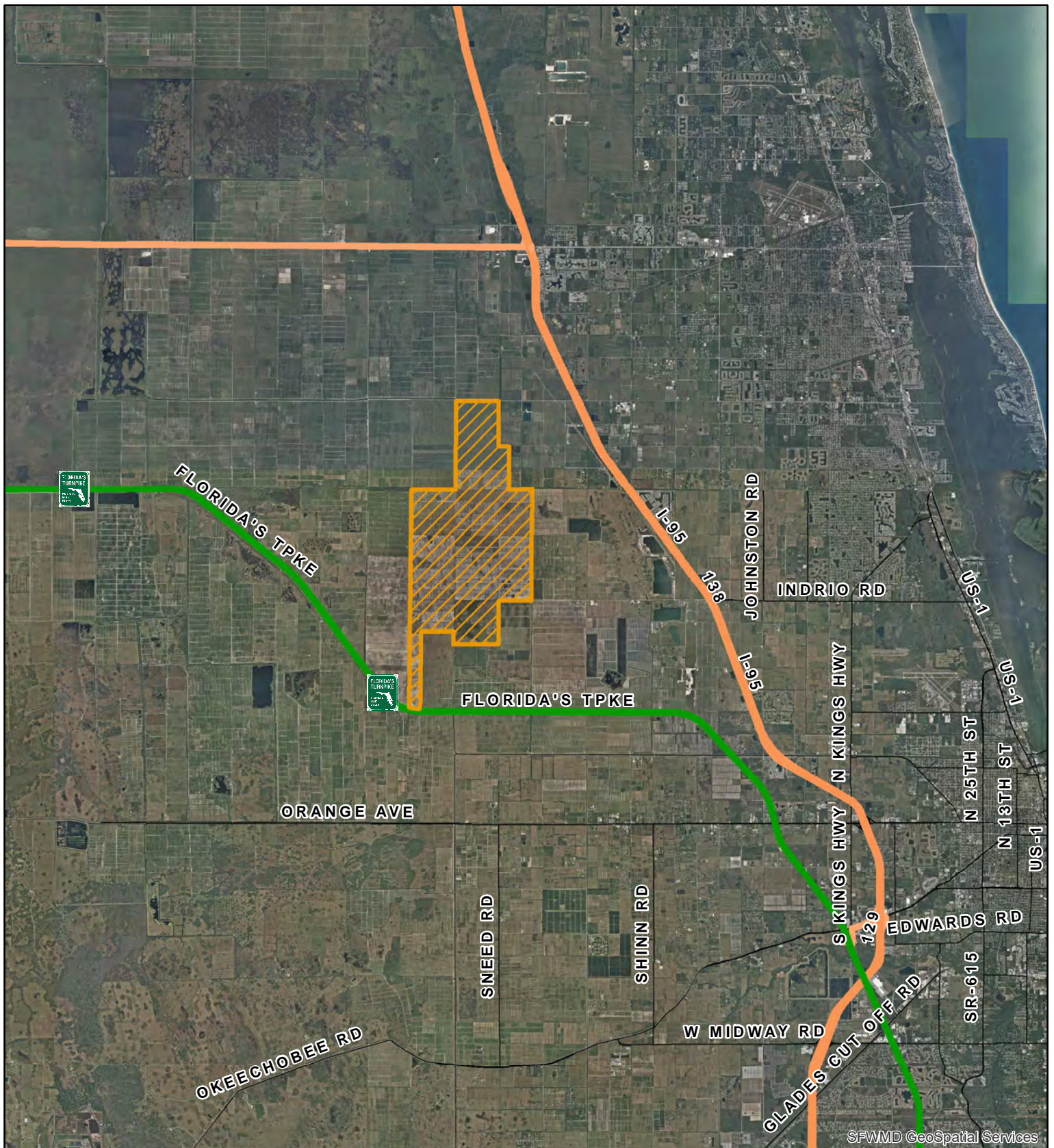

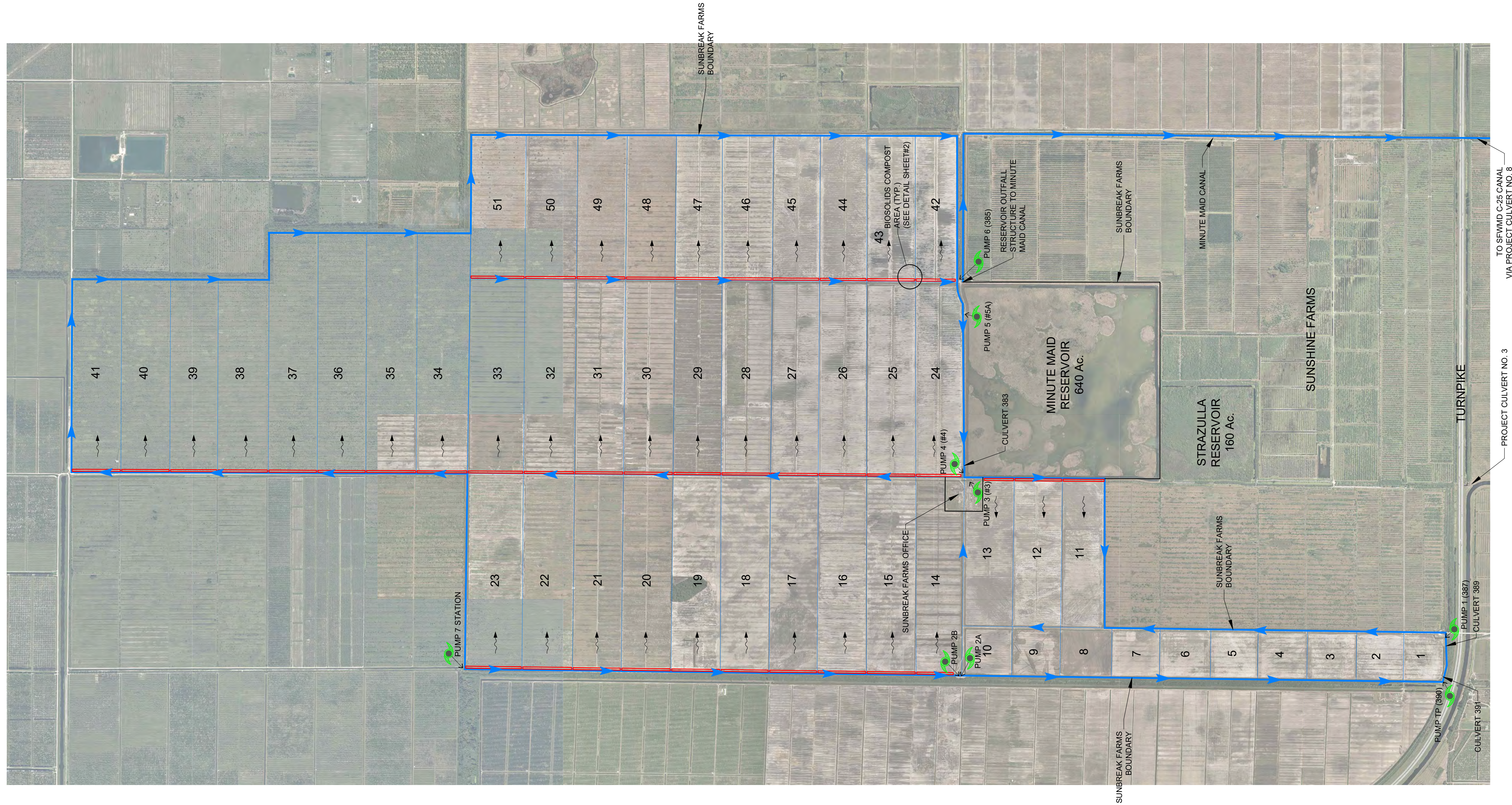
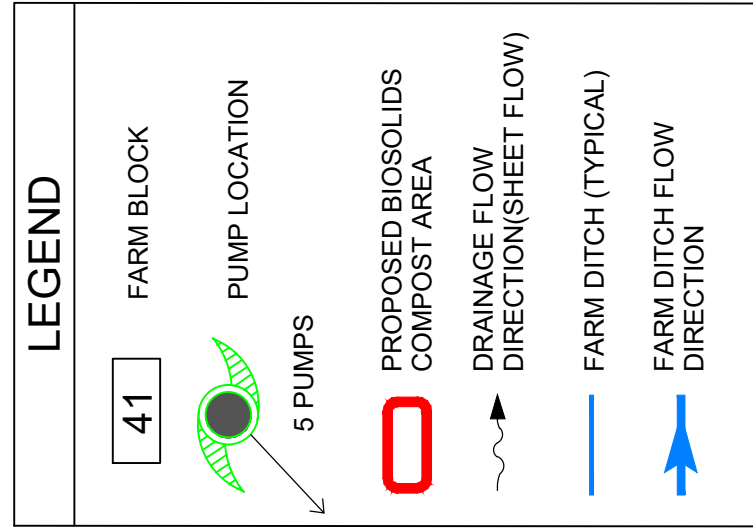
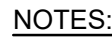


Exhibit No: 1	Exhibit Created On: 2018-07-17	ST. LUCIE COUNTY, FL	<div data-bbox="987 1747 1250 1789" data-label="Text">  Application </div> <div data-bbox="987 1810 1274 1843" data-label="Text"> Permit No: 56-00111-S </div> <div data-bbox="987 1873 1388 1906" data-label="Text"> Application Number: 180613-16 </div> <div data-bbox="987 1927 1071 2037" data-label="Image"> </div>
<div data-bbox="133 1885 246 2011" data-label="Image"> </div> <div data-bbox="337 1810 727 1848" data-label="Section-Header"> <h3>REGULATION DIVISION</h3> </div> <div data-bbox="311 1864 755 1900" data-label="Text"> <p>Project Name: SUNBREAK FARMS</p> </div> <div data-bbox="321 1974 717 2041" data-label="Figure"> </div> <div data-bbox="836 1906 896 2026" data-label="Image"> </div>			

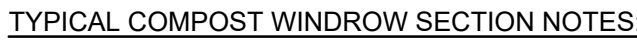
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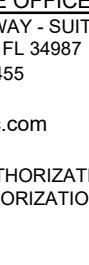
1. PRIOR TO THE ACCEPTANCE OF BULKING AGENTS OR BIOSOLIDS, THE COMPOSTING AREA SHALL BE STRIPPED/GRUBBED OF VEGETATION. PERIMETER BERMS SHALL BE FORMED, A STABILIZED ROCK ENTRANCE INSTALLED, AND THE INTERIOR AREA GRADED AS SHOWN ON THIS EXHIBIT.
2. NO POLLUTION OR EROSION CAUSED BY THIS PROJECT WILL BE ALLOWED IN THE STORMWATER DRAINAGE SYSTEM. THE CONTRACTOR SHALL INSTALL ANY DEVICES NECESSARY TO PREVENT POLLUTION OR EROSION.
3. ALL AREAS SHALL BE CLEARED AND GRUBBED PRIOR TO CONSTRUCTION. THIS SHALL CONSIST OF THE COMPLETE REMOVAL AND DISPOSAL OF ALL TREES, BRUSH, STUMPS, GRASS, WEEDS, RUBBISH AND ALL OTHER OBSTRUCTIONS RESTING ON, OR PROTRUDING THROUGH THE SURFACE OF THE EXISTING GROUND TO A DEPTH OF ONE (1) FOOT.
4. BERMS SHALL BE CONSTRUCTED OF FILL CONSISTING OF A UNIFORM FREE DRAINING GRANULAR SOIL (CLEAN SAND) AND BE PLACED IN LAYERS NOT TO EXCEED 12 INCHES LOOSE MEASURE AND SUFFICIENT COMPACTIVE EFFORT SHOULD BE APPLIED TO OBTAIN A MINIMUM OF 98% OF THE MODIFIED PROCTOR (ASTM D-1557) MAXIMUM VALUE.
5. THE INTERIOR OF THE COMPOSTING AREAS SHALL BE GRADED WITH A 2% SLOPE TOWARD THE V-DITCH RETENTION AREA SUCH THAT DRAINAGE DOES NOT REACH THE ADJACENT DITCHES.
6. ALL TRUCKS AND EQUIPMENT ASSOCIATED WITH THE BIOSOLIDS COMPOSTING OPERATION SHALL ENTER THROUGH THE STABILIZED ROCK ENTRANCE. THE ENTRANCE SHALL BE CLEARLY VISIBLE AND ACCESSIBLE FROM THE FARM BLOCK ACCESS ROADS.
7. UPON ARRIVAL AT THE FARM ALL BULKING AGENT AND BIOSOLIDS MATERIALS MUST BE FIRST BROUGHT TO THE FRONT OFFICE TO DOCUMENT THE DATE, TIME, QUANTITY, TYPE, AND OPERATOR'S NAME. THESE RECORDS SHALL BE KEPT AT THE FRONT OFFICE AND MADE AVAILABLE UPON REQUEST.
8. ALL BULKING AGENT AND BIOSOLIDS MATERIALS MUST BE BROUGHT DIRECTLY TO THE APPROPRIATE COMPOST AREA AS DESIGNATED BY THE FACILITIES MANAGER. THE FACILITIES MANAGER SHALL ENSURE THAT QUANTITIES OF MATERIALS BROUGHT TO EACH COMPOSTING AREA CAN BE INCORPORATED INTO THE COMPOSTING PROCESS AS DESCRIBED IN THE OPERATIONS MANUAL AND THIS SHEET. THERE SHALL BE NO EXCESS STORAGE OF BIOSOLIDS OR BULKING AGENTS THAT ARE NOT APART OF THE ACTIVE COMPOSTING PROCESS.



1. SUNBREAK FARMS SHALL CLEAR , GRUB, AND LEVEL ALL AREAS WITHIN THE FOOTPRINT OF THE PROPOSED COMPOST CELLS PRIOR TO CONSTRUCTION OF THE BERMS, PADS, OR V-DITCH. COMPOST CELL AREA SHALL BE FREE OF ANY VEGETATION AND DELETERIOUS MATERIALS.
2. PRIOR TO CONSTRUCTION OF THE COMPOST CELLS, SUNBREAK FARMS SHALL PUMP DOWN WATER LEVELS IN THE INTERNAL FARM DITCHES A MINIMUM OF 12" BELOW THE PROPOSED V-DITCH INVERT(S). THE PUMPED WATER SHALL BE ROUTED AND STORED IN THE EXISTING 640 ACRE ABOVE GROUND IMPOUNDMENT. WATER LEVELS SHALL BE CONTROLLED AT THIS ELEVATION FOR THE DURATION OF COMPOSTING ACTIVITIES TO ENSURE THE CELLS REMAIN SUFFICIENTLY DRY.
3. SUNBREAK FARMS SHALL BE RESPONSIBLE FOR ENSURING THE CELLS ARE CONSTRUCTED TO THE TYPICAL CROSS-SECTION A-A FOR THE ENTIRE LENGTH OF THE COMPOST AREA. THE FINAL LENGTH OF CELLS MAY VARY SLIGHTLY BASED ON FARM BLOCK WIDTH. AS SUCH, SUNBREAK FARMS SHALL CONSTRUCT BASED ON SECTION A-A AT 1:1 RATIO PER LINEAR FOOT OF COMPOST TO ENSURE TOTAL RETENTION. ALL ENDS OF COMPOST CELLS SHALL BE ENCLOSED WITH BERMS OF THE MINIMUM REQUIRED HEIGHT. ALL BERMS SHALL BE FULLY STABILIZED (SEEDED OR SODDED) WITH NATIVE FLORIDA GRASS TO ENSURE ADEQUATE SEDIMENT AND EROSION CONTROL.
4. UPON COMPLETION OF EACH INDIVIDUAL COMPOST CELL, SUNBREAK FARMS SHALL BE RESPONSIBLE FOR FURNISHING A CERTIFIED AS-BUILT RECORD DRAWING FROM A PROFESSIONAL LAND SURVEYOR TO THE ENGINEER OF RECORD. DEFICIENCIES IN CONSTRUCTION OR OPERATION SHALL BE CORRECTED IMMEDIATELY UPON DIRECTION FROM THE ENGINEER OF RECORD OR ANY GOVERNING AGENCY WITH APPLICABLE JURISDICTION.
5. PRIOR TO COMMENCEMENT OF COMPOSTING ACTIVITIES, THE ENGINEER OF RECORD SHALL INSPECT AND PROVIDE AS-BUILT CERTIFICATION FOR EACH CONSTRUCTED CELL TO THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD) AND FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP). COMPOSTING ACTIVITIES SHALL NOT OCCUR IN ANY CELL WHICH HAS NOT BEEN CERTIFIED AND APPROVED BY THE RESPECTIVE AGENCIES.
6. ALL CERTIFIED BERMS, PADS, AND V-DITCHES ASSOCIATED WITH THE COMPOST CELLS SHALL REMAIN ENCLOSED AND STABILIZED FOR THE DURATION OF THEIR USE. AUTHORIZATION FROM THE SFWMD AND FDEP SHALL BE OBTAINED PRIOR TO THE ABANDONMENT OR MODIFICATION OF ANY COMPOST CELLS.
7. CONTAINMENT AREA ELEVATIONS ARE AVERAGES, ACTUAL CONFIGURATION SHALL MEET THE DEPTH AND WIDTH FOR EACH FARM BLOCK.



1. THE WINDROWS SHALL BE CONSTRUCTED AS SHOWN ABOVE. CONSTRUCTION SHALL BE PERFORMED AS FOLLOWS:
- A) WHERE POSSIBLE, THE MOST FRESHLY GROUND YARD TRASH SHALL BE SET ASIDE SEPARATELY.
 - B) WINDROWS COMPOSTING SHALL BE CONSTRUCTED DIRECTLY ON A COMPOST PAD. PRIOR TO PLACING BIOSOLIDS IN THE MANAGEMENT AREA A 50:50 BLEND OF GROUND YARD TRASH AND SCREEN-OVERS SHALL BE USED TO CREATE A 12" BASE LAYER UPON WHICH ACTIVE COMPOSTING WILL BE PLACED. SCREEN-OVERS SHALL CONSIST OF SCREENED RAW COMPOST FROM SCREENING DURING POST-PROCESSING. THE BASE LAYER SHOULD BE REASONABLY MIXED AND UNIFORMLY PLACED TO ACHIEVE PROPER INSULATION FROM THE GROUND SURFACE. THE FRESHLY GROUND YARD TRASH (A ABOVE) SHALL BE SPREAD ON TOP OF THIS BASE LAYER IN AN AMOUNT EQUIVALENT TO TWICE THE VOLUME OF BIOSOLIDS TO BE RECEIVED. YARD TRASH MATERIALS SHOULD ALSO BE USED TO FORM A PERIMETER CONTAINMENT BERM AROUND THE BASE LAYER PRIOR TO PLACEMENT OF BIOSOLIDS.
 - C) TRUCKS SHALL UNLOAD THE BIOSOLIDS TO A PRE-CONSTRUCTED BASE LAYER ONCE THE ASSOCIATED BERMS HAVE BEEN FORMED. EXCESS BIOSOLIDS LIQUIDS SHALL NOT BE APPLIED TO THE WINDROW.
 - D) AFTER PLACEMENT OF THE BIOSOLIDS ON THE DESIGNATED WINDROW BASE LAYER, STAFF SHALL PLACE FRESHLY GROUND YARD TRASH ON TOP OF THE BIOSOLIDS. THE VOLUMETRIC RATIO OF YARD TRASH TO BIOSOLIDS SHALL BE 3-TO-1, RESPECTIVELY.
 - E) UNSCREENED BIOSOLIDS COMPOST SHALL BE USED TO CONSTRUCT A CAPPING LAYER TO INSULATE THE ACTIVE COMPOST MIX AND ACT AS A BIOFILTER TO MINIMIZE ODORS. IF UNSCREENED BIOSOLIDS ARE NOT AVAILABLE, THE CAP LAYER SHALL CONSIST OF GROUND YARD TRASH.
 - F) STAFF SHALL PROMPTLY UTILIZE MECHANICAL MEANS TO THOROUGHLY MIX THE BIOSOLIDS AND BULKING AGENT TOGETHER.
 - G) THE WINDROW SHALL BE CONSTRUCTED TO DIMENSIONS THAT ARE APPROXIMATELY 8 FEET WIDE AND 16 FEET TALL. LENGTHS WILL VARY BASED ON AVAILABLE SPACE IN THE COMPOSTING AREAS BUT WILL NOT EXCEED THE LENGTH OF THE FARM BLOCK. ALL WINDROWS SHALL BE COMPLETELY CONSTRUCTED AND MIXED TO PREVENT OPEN EXPOSURE OF BIOSOLIDS. ALL PILE SLOPES SHALL BE REASONABLY STABLE TO PREVENT SLOUGHING OF MATERIALS.

 <p>ENGINEERS & SURVEYORS</p>	
PORT SAINT LUCIE OFFICE 10250 SW VILLAGE PARKWAY - SUITE 201 PORT SAINT LUCIE, FL 34987 772-462-2455 8 www.edc-inc.com	
F.B.P.E. CERTIFICATE OF AUTHORIZATION 9635 L.B. CERTIFICATE OF AUTHORIZATION 8998	
DCB _____ DESIGNED BY _____ .J.W. _____ DRAWN BY _____ FILENAME _____ 16-243 compost exhibit fl.dwg TYPICAL AREA _____ LAYOUT _____ AS SHOWN _____ SCALE _____ 10/6/2018 _____ DATE _____	
SUBJECT _____ DATE _____	GROUNDWATER MEASURING DEVICE ADDED _____ REVISION COMMENTS _____

SUNBREAK FARMS

TYPICAL COMPOST AREA EXHIBIT

PORT ST. LUCIE FLORIDA

DAVID C. BAGGETT (DATE)
#81375

10250 SW VILLAGE PARKWAY - SUITE 201
 PORT SAINT LUCIE, FL 34987
 772-462-2455

16-243

2 OF 2

STAFF REPORT DISTRIBUTION LIST

SUNBREAK FARMS

Application No: 180613-16

Permit No: 56-00111-S

INTERNAL DISTRIBUTION

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- X Engr Consultant - Engineering Design & Construction Inc
- X Other Interested Party - Gardner, Bist, Bowden, Bush, Dee, Lavia & Wright, P.A.
- X Other Interested Party - Indian River County
- X Other Interested Party - Pga Village Poa Inc.
- X Other Interested Party - State Rep.

GOVERNMENT AGENCIES

- X City of Port St Lucie - Planning Div
- X City of Port St Lucie - Public Works
- X St. Lucie County Engineer
- X St. Lucie County Planning and Development Services
- X US Army Corps of Engineers Permit Section

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Cammie Dewey, P.E.
Environmental Resource Program Manager St.
Johns River Water Management District
cdewey@sjrwmd.com

STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RECEIVED
DISTRICT CLERK'S OFFICE

2:41 pm Jun 17, 2019

SUNBREAK FARMS, LLC,

Petitioner,

vs.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,

Respondent.

SFWMD No.

ERP No. 56-00111-S
(Application No. 180613-16)

SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

RB

ST. LUCIE COUNTY'S
MOTION TO INTERVENE IN SUPPORT OF SFWMD

St. Lucie County, Florida ("County"), acting by and through its undersigned counsel, respectfully submits this motion for leave to intervene ("Motion") in this administrative proceeding pursuant to Section 403.412(5), Florida Statutes, and Rule 28-106.205, Florida Administrative Code ("F.A.C."). The County supports the Proposed Agency Action (dated May 24, 2019) that was issued by the Respondent, the South Florida Water Management District ("District" or "SFWMD"). In its Proposed Agency Action, the District announced its intent to deny the application ("Application") filed by the Petitioner, Sunbreak Farms, LLC., for a modification of an existing Environmental Resource Permit (ERP No. 56-00111-S).

In support of this Motion, the County states:

St. Lucie County

1. St. Lucie County is a political subdivision of the State of Florida. Its main office is located at 2500 Virginia Avenue, Ft. Pierce, Florida 34982. For the purposes of this proceeding, all legal papers and correspondence should be served upon the County's outside counsel, Mr. David S. Dee, and a copy provided to the County Attorney's Office in care of Ms.

Katherine Barbieri. The contact information for Mr. Dee is provided on the last page of this Motion. The contact information for Ms. Barbieri is provided in the Certificate of Service, which is attached to this Motion. The telephone number for the County Attorney's Office is (772) 462-1420.

Background Information

2. The Petitioner wishes to construct and operate a Type I Biosolids Management Facility ("Proposed Facility") in unincorporated areas of St. Lucie County and Indian River County, Florida. The Proposed Facility will accept and process "biosolids," which are defined by the Florida Department of Environmental Protection ("Department" or "FDEP") to mean the "solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility. . . ." (formerly known as residuals). See FDEP Rule 62-640.200(6), F.A.C. The Petitioner plans to receive and process Class B biosolids, other organic wastes (e.g., chicken and animal manure), and bulking agents to produce up to 80,000 dry tons per year of compost. The Application indicates that the compost will be produced in multiple Biosolids Composting Cells, which collectively will be approximately 80 acres in size. To produce 80,000 dry tons of compost each year, the Proposed Facility will need to receive at least 100,000 wet tons of biosolids each year, and each acre of the Biosolids Composting Cells will receive at least 1,250 wet tons of biosolids each year.

3. In its Application, the Petitioner seeks authorization to modify an existing Environmental Resource Permit (ERP No. 56-0011-S). The modification would allow the Petitioner to construct and operate a stormwater management system that would attempt to collect, retain, and infiltrate the stormwater and leachate generated by the Petitioner's composting activities.

4. The Proposed Facility and the associated stormwater management system will be constructed and operated on a parcel of land (the “Site”) that is approximately 6,580 acres in size. The vast majority of the Site is located in St. Lucie County and the remainder is in Indian River County. The Site is in the watershed of the St. Lucie River, which the Florida Legislature has identified as one of the “critical water resources of the state.” § 373.4595(1)(a), Florida Statutes. The Site also is in the watershed of the Indian River Lagoon (“Lagoon”), which the U.S. Environmental Protection Agency has designated as an “Estuary of National Significance” because the Lagoon is one of the most biologically diverse ecosystems in North America.

5. Surface water runoff, ground water flow, and other discharges from the Site will drain into the C-25 canal and then flow into the estuary of the St. Lucie River (the “Estuary”) and the Lagoon. The Estuary and the Lagoon have been designated as “impaired” waters by the FDEP because the water quality in the Estuary and Lagoon fails to comply with the state standards for Class III surface waters, which were “established to protect fish consumption, recreation and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife.” FDEP Rule 62-302.400(4), F.A.C. The poor water quality in the Estuary and Lagoon is caused in part by excessive amounts of nitrogen and phosphorus that drain into these waterbodies from upstream areas, including agricultural lands.

6. Given these water quality problems, the Florida Legislature established various programs and requirements for the protection of the St. Lucie River watershed and the Estuary. See, e.g., §§ 373.4595(1), (4), (5), and (8), Florida Statutes. Notwithstanding these efforts by the Legislature, and notwithstanding the efforts of the FDEP and SFWMD to implement the Legislature’s directives, the Estuary and the Lagoon have experienced major algae blooms in recent years. These algae blooms have been unprecedented in their scope and severity, causing

large areas of the Estuary and Lagoon to be covered in thick mats of toxic blue-green algae. The impacts were devastating to the local ecosystems and dramatically reduced the use of the Estuary and Lagoon for fishing, boating, and other recreational purposes. The County declared a “State of Local Emergency” in 2016 and 2017 pursuant to Section 252.38(3), Florida Statutes, based on the County’s determination that the algae in the local waterways posed a danger to health, life, property, and the economic well-being of St. Lucie County residents.

7. The County is concerned the Petitioner’s proposed Type I Biosolids Management Facility will have significant adverse impacts on the County, its property, and the natural resources located in the County, including but not limited to the Estuary and the Lagoon. Accordingly, the County retained a professional engineering and consulting firm, CDM Smith, Inc. (“CDM Smith”), to assist the County with its review of the Petitioner’s Application. CDM Smith’s engineers and other professionals have extensive experience with biosolids, biosolids management facilities, and the protection of water resources. CDM Smith has completed its review of the Petitioner’s Application and other submittals to the SFWMD, but CDM Smith still has unresolved questions and concerns about the Petitioner’s proposed activities and their impacts on aquatic resources.

St. Lucie County’s Statutory Right to Intervene

8. St. Lucie County is a political subdivision of the State of Florida. Pursuant to Section 403.412(5), Florida Statutes, St. Lucie County has standing to intervene in a formal administrative hearing by filing a verified petition asserting that the activity to be licensed or permitted will have the effect of impairing, polluting, or otherwise injuring the air, water, or other natural resources of the State. In the instant case, St. Lucie County asserts that the proposed activity to be permitted by the SFWMD will have such effects. The County’s

assertions about these matters are supported by the affidavit testimony of Mr. Seth Nehrke, P.E., D.WRE, a professional engineer registered in the State of Florida. Mr. Nehrke's affidavit is attached hereto as Exhibit A and his testimony is incorporated herein by reference.

St. Lucie County's Substantial Interests

9. In addition to having standing in this case under Section 403.412(5), Florida Statutes, St. Lucie County also has standing because the proposed Type I Biosolids Management Facility and the proposed activities to be permitted by the SFWMD could reasonably be expected to adversely affect the County's substantial interests. As noted above, the Proposed Facility is located within the watershed of the St. Lucie River and the Site drains into the Estuary and the Lagoon. If the Proposed Facility is built, the surface water runoff from the Site, the groundwater draining from the Site, and the water overflowing or pumped from the 640-acre stormwater reservoir on the Site may cause or contribute to water quality violations in the Estuary and Lagoon. It appears that the Petitioner's existing SFWMD permits would allow the Petitioner to pump up to 190,000 gallons of water per minute (273,600,000 gallons per day) from the Site. Significant quantities of water reportedly have been discharged from the Site on certain occasions in the last few years. The discharges from the Site could reasonably be expected to increase the nutrient loading to the downstream waterbodies and thus exacerbate the water quality problems in the Estuary and Lagoon.

10. The County has four public parks that could be adversely affected by the Petitioner's proposed activities. First, the County owns and operates the Harbour Pointe Park on a 20-acre parcel of land that is bordered on two sides by the Estuary. The Harbour Pointe Park is adjacent to the mouth of Taylor Creek – i.e., the location where the surface water discharges from the Site will leave Taylor Creek and enter the Estuary. Second, the County operates

Wesley's Island Park on a State-owned island that is in the Estuary and relatively close to the mouth of Taylor Creek. Third, the County owns and operates the South Causeway Island Park, which has a lengthy border abutting the Estuary, relatively close to the mouth of Taylor Creek. Fourth, the County leases and operates Coon Island, another island in the Estuary.

11. All four of these properties (i.e., Harbour Pointe Park; Wesley's Island Park; South Causeway Island Park; Coon Island) are maintained and operated by the County. The County has removed exotic vegetation, provided shelters and amenities, and taken other steps to promote the public's use of these four properties. The County's goal is to enhance the environmental and social value of these properties so that they are an attractive destination for the County's residents and tourists, who use these properties for various purposes, including but not limited to fishing, boating, birdwatching, and picnicking.

12. The County's substantial interests in these four properties would be materially and adversely affected by the Proposed Facility if the groundwater and/or surface water discharges from the Site cause or contribute to water quality violations and toxic algae blooms in the Estuary. The County's residents and tourists will curtail their use of the County's properties if the Estuary again experiences a massive algae bloom that turns the water green, coats the shoreline with gelatinous mats of toxic blue-green algae, kills the fish and other aquatic creatures, and causes respiratory distress for humans in the vicinity of the Estuary. Under such circumstances, the County's substantial interests also will be adversely affected because the County will need to clean-up the shoreline bordering its four properties. The clean-up will require the County to expend its time, energy, money, and other resources. The clean-up will place the County's employees and/or contractors at risk because they will be exposed to the algae, dead fish, and other dead and dying organisms along the shoreline of the Estuary.

Compliance with Rule 28-106.205, F.A.C.

13. As noted above, the County wishes to intervene in this proceeding in support of the Proposed Agency Action (dated May 24, 2019) issued by the Respondent, the SFWMD.

14. Pursuant to Rules 28-106.205(2)(e) and 28-106.204(3), F.A.C., the undersigned counsel has conferred with the attorneys representing the Petitioner and the SFWMD, respectively. The SFWMD's attorney has authorized the undersigned counsel to state that the SFWMD has no objection to this Motion and the County's request to intervene. Petitioner's attorney has instructed the undersigned counsel to state that the Petitioner opposes this Motion and will file a written objection to this Motion.

Relief Requested

WHEREFORE, St. Lucie County respectfully requests the District to grant this Motion and thereby allow the County to intervene in this administrative proceeding.

Respectfully submitted this 17th day of June, 2019.

GARDNER, BIST, BOWDEN, BUSH,
DEE, LAVIA & WRIGHT, P.A.



David S. Dee
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ddee@gbwlegal.com
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1300 Thomaswood Drive
Tallahassee, FL 32308
Phone: (850) 385-0070
Fax: (850) 385-5416
ATTORNEYS FOR ST. LUCIE COUNTY


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed by electronic mail with the South Florida Water Management District, in care of the Office of the District Clerk (Clerk@SFWMD.gov), 3301 Gun Club Road, West Palm Beach, FL 33406, and copies were served electronically this 17th day of June, 2019, to:

Katherine Barbieri (Barbierik@stlucieco.org)
St. Lucie County Attorney's Office
2300 Virginia Avenue
Fort Pierce, Florida 34982

John L. Wharton (jwharton@deanmead.com)
Dennis Corrick (dcorrick@deanmead.com)
215 S. Monroe St., Suite 815
Tallahassee, FL 32301

Susan Roeder Martin (SMartin@SFWMD.gov)
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, FL 33406

By: 

Attorney

EXHIBIT A TO ST. LUCIE COUNTY'S MOTION TO INTERVENE

(Affidavit of Seth M. Nehrke, P.E., dated June 17, 2019)

STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

SUNBREAK FARMS, LLC,

Petitioner,

SFWMD No.

vs.

ERP No. 56-00111-S
(Application No. 180613-16)

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,

Respondent.

AFFIDAVIT OF SETH M. NEHRKE, P.E.

STATE OF COLORADO

COUNTY OF ADAMS

I, SETH M. NEHRKE, being duly sworn, depose and state as follows:

1. I am over eighteen (18) years of age.
2. This affidavit is based upon my personal knowledge of the facts and circumstances discussed herein.
3. This affidavit has been prepared at the request of St. Lucie County to supplement the County's motion to intervene in this proceeding in support of the South Florida Water Management District ("SFWMD").
4. I received a Bachelor of Arts degree in Environmental Studies from the State University of New York at Binghamton in 1996, a Bachelor of Science degree in Civil Engineering from Colorado State University in 2001, and a Master of Science degree in Civil Engineering from Colorado State University in 2002. I am a registered Professional Engineer in Florida, Colorado, Georgia, Louisiana, Mississippi, and Texas. Based on my training and

experience, in 2012 I was admitted as a Diplomate, Water Resources Engineer, by the American Academy of Water Resources Engineers. I am employed by CDM Smith Inc. (CDM Smith (Camp Dresser & McKee (CDM) prior to 2011)), an international engineering and consulting firm, where I serve as a Principal, Water Resources Engineer. At CDM Smith I have worked a wide range of projects involving water quality issues, including stormwater management planning, modeling, design, construction, and operations. To date I have served as the Project Engineer or Project Manager on more than 100 projects, which have been located across the United States and overseas, in places as diverse as Australia, Puerto Rico, and Tanzania. While employed by CDM Smith, I spent 13.5 years living in Florida, where I gained extensive experience working with applicants seeking the issuance of Environmental Resource Permits (“ERP”) from the Florida Department of Environmental Protection (“FDEP”) or a water management district.

5. CDM Smith serves as a consulting engineer to the County. At the request of St. Lucie County, CDM Smith reviewed an application and supporting materials (collectively, “Application”) that were filed with the SFWMD by Sunbreak Farms, LLC (“Sunbreak Farms”) on or about June 13, 2018. In its Application, Sunbreak Farms requested a modification of the Environmental Resource Permit (ERP No. 56-00111-S) that the SFWMD previously issued for the construction and operation of the stormwater management system used by Sunbreak Farms. More specifically, Sunbreak Farms requested authorization to construct and operate a stormwater management system that will serve “biosolids composting cells” – i.e., areas where Sunbreak Farms will receive and process biosolids (i.e., human wastewater residuals) that will be transported to Sunbreak Farms’ property from domestic wastewater treatment plants. The biosolids composting cells will be approximately 80 acres in size. The Application indicates, and my professional experience confirms, that Sunbreak Farms must obtain a modification of the

existing ERP permit (ERP No. 56-00111-S) from the SFWMD before Sunbreak Farms can begin to build the composting cells and associated stormwater management systems on its property.

6. On three separate occasions the SFWMD requested Sunbreak Farms to provide additional information concerning its Application and the proposed stormwater management facilities. Each time Sunbreak Farms provided some, but not all, of the information requested by the SFWMD.

7. Acting on behalf of CDM Smith and at the request of St. Lucie County, I reviewed each one of Sunbreak Farms' responses to the SFWMD's requests for additional information, and then I prepared letters to the SFWMD concerning the deficiencies in the Application, as supplemented. My letters to the SFWMD are attached hereto and incorporated herein by reference. See Attachment "A" (letter from CDM Smith dated August 27, 2018), Attachment "B" (letter from CDM Smith dated December 27, 2018) and Attachment "C" (letter from CDM Smith dated April 18, 2019). To the best of my knowledge and belief, the statements in my letters (Attachments "A", "B", and "C") are accurate and correct.


8. The Application includes a copy of a Domestic Wastewater Facility Permit (FDEP Permit No. FLA979830) that was issued by the Florida Department of Environmental Protection to Sunbreak Farms. The FDEP permit describes Sunbreak Farms' project as a "new, type I Biosolids Management Facility with a permitted Class AA compost production of approximately 80,000 dry tons per year." The Application and the FDEP permit state that vegetative waste will be mixed with biosolids in a 3:1 ratio to produce compost. The FDEP Permit also states that the solids content of the biosolids may range from 1.75% for liquid biosolids to 17.75% for dewatered "cake."

9. Based on the information provided by Sunbreak Farms, I calculate that Sunbreak Farms will need to receive 20,000 dry tons of biosolids and 60,000 dry tons of vegetative waste

each year to produce 80,000 dry tons per year of compost. If I conservatively assume the biosolids will have a solids content of 20%, I calculate that Sunbreak Farms will need to receive at least 100,000 wet tons of biosolids each year to produce the permitted quantity of compost. Stated differently, the 20,000 dry tons of biosolids used by Sunbreak Farms is equal to 100,000 wet tons of biosolids with a solids content of 20%. Since the 100,000 wet tons of biosolids will be delivered to and processed on 80 acres of land used for "biosolids composting cells," I calculate that each acre of the composting cells will receive at least 1,250 wet tons of biosolids each year (assuming uniform distribution across the cells). These calculations are intentionally designed to be conservative – i.e., they underestimate the amount of biosolids that will need to be transported and delivered to Sunbreak Farms to produce 80,000 dry tons per year of compost.

10. For the reasons set forth in my letters (Attachments "A", "B", and "C"), I have concluded that the liquids (i.e., "leachate") emanating from or rainfall that comes into contact with the biosolids in the composting cells at Sunbreak Farms will drain down from the composting cells into the groundwater. These liquids then will flow laterally to surface waters, which ultimately drain to downstream waterbodies that are "impaired" – i.e., the waterbodies are not in compliance with Florida's water quality standards because of the nutrients (e.g., nitrogen and phosphorus) and other pollutants in those waterbodies. There also are other plausible scenarios where leachate from the composting cells will reach downstream waterbodies. Since the biosolids delivered to Sunbreak Farms will contain nutrients and other pollutants, it is my professional opinion that the activity to be licensed and permitted in this proceeding will have the effect of impairing, polluting or otherwise injuring the water and other natural resources of the state.

Further, Affiant sayeth naught.

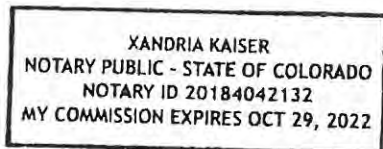


Seth M. Nehrke

STATE OF COLORADO

COUNTY OF Denver

Sworn to and subscribed to before me on June 17th, 2019, by Seth M. Nehrke,
who is ✓ personally known to me or produced as
identification.



Xandria Kaiser

Xandria Kaiser

Notary Public

State of Colorado

My Commission Expires: October 29, 2022

My Commission No.: 20184042132

ATTACHMENT A TO AFFIDAVIT OF SETH M. NEHRKE, P.E.
(CDM Smith letter dated August 27, 2018 to SFWMD)



August 27, 2018

Gary R. Priest, P.E.
Okeechobee Regulatory Office
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Subject: Sunbreak Farms Biosolids Composting Cells
Application to Modify SFWMD ERP No. 56-00111-S

Dear Mr. Priest:

At the request of St Lucie County, CDM Smith reviewed the application and supporting materials (collectively, Application) filed on June 13, 2018 by Sunbreak Farms for a modification of South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) No. 56-00111-S. After an initial review of the Application, the SFWMD issued a request for additional information (RAI) on July 13, 2018. CDM Smith has reviewed this RAI, along with the RAI response package (RAI Response) dated August 13, 2018 that was prepared by Sunbreak Farms.

In its Application, Sunbreak Farms requests authorization to construct approximately 80 acres of Biosolids Composting Cells (Project) that will be used to receive and process biosolids from domestic wastewater treatment plants. The FDEP issued a "Domestic Wastewater Facility Permit" (No. FLA9799830) that describes the Project as a "new, Type I Biosolids Management Facility with a permitted Class AA compost production of approximately 80,000 dry tons per year." The Application indicates that vegetative waste will be mixed with biosolids in a 3:1 ratio to produce compost. Thus, the production of 80,000 dry tons per year of compost will require the delivery and management of approximately 20,000 dry tons per year of biosolids. The FDEP permit indicates the solids content of biosolids may range from 1.75% for liquid biosolids to 17.75% for dewatered "cake." If we conservatively assume the biosolids will have a solids content of 20%, we calculate the Project will receive at least 100,000 wet tons of biosolids each year, and each acre of the composting cells will receive at least 1,250 wet tons of biosolids each year.

Based on our review of the Application and RAI Response, CDM Smith has concluded that the Application currently does not provide reasonable assurance of compliance with the applicable standards for the issuance of an ERP modification. For this reason, we believe the SFWMD should request additional information from Sunbreak concerning the proposed Project.

In addition to the items of concern outlined in our letter dated July 11, 2018, we offer the following additional observations and questions with respect to the Project and the proposed stormwater management system:

- 1) The revised "Drainage Calculations" repeatedly reference the Florida Department of Agriculture and Consumer Services (FDACS) Best Management Practices (BMPs) and the farm's compliance with said BMPs.
 - a. These BMPs are geared towards controlling runoff from traditional agricultural operations, not the runoff from a "Biosolids Management Facility" that is receiving

large quantities of domestic wastewater residuals, pursuant to a "Domestic Wastewater Facility Permit."

- b. Compliance with BMPs in the farm fields does not create any presumption of compliance with regard to the delivery, processing, and management of biosolids in the proposed composting areas. Compliance with the presumptive criteria that these agriculturally focused BMPs are based upon should not be misconstrued to imply that the proposed biosolids composting activities will result in no net degradation of the environment.
- 2) The Application and RAI Response state that the groundwater levels on the farm are manipulated via pumping. The RAI Response states that groundwater levels will be maintained below the invert of the V-ditch that will be excavated on the site and then used to provide retention for the runoff from the composting windrows.
- a. Lowering the groundwater table will promote infiltration during the period of drawdown.
 - b. Lowering the groundwater table will simply delay, but will not eliminate, the influx into the groundwater of nutrients and other contaminants associated with the biosolids.
 - c. The Application and RAI Response fail to acknowledge that any seepage will occur from the V-ditch into the groundwater. As a result, these documents do not quantify the seepage from the V-ditch into the groundwater table, which flows into onsite and offsite canals.
 - d. Because the Application and RAI Response fail to acknowledge the seepage from the V-ditch into the groundwater, these documents fail to analyze the impacts on water quality that may occur in the groundwater onsite, as well as the impacts on surface water on and off of the site. For the same reasons, the Application and RAI Response fail to analyze the impacts on water quality that may occur when the reservoir discharges to offsite waters.
 - e. The Application and the RAI Response do not demonstrate that nutrients (and other potential pollutants of concern) in the seepage from the composting areas will be managed to avoid offsite impacts in impaired waters.
- 3) The RAI response package continues to reference retention as the proposed methodology of stormwater management; however:
- a. Neither infiltration capacity nor recovery time is addressed in the Application or the RAI Response. Review of the SFWMD digital soils coverage shows the majority of the site is classified as hydrologic soil group "D", which is poorly drained. It has been stated by the applicant that the soil has been scarified using "deep rippers" that cut into and through the compacted soils onsite. Further, the applicant proposes to excavate the V-ditch at least 24" below ground surface, thus cutting through any compacted soils in the composting areas. The applicant's plans indicate the V-ditch will be 2 feet deep and 16 feet wide, and will extend the entire length of the composting area, thus providing a large conduit for infiltration into the groundwater. It is requested that the applicant provide additional quantitative information (i.e., geotechnical data) on the proposed retention system and site infiltration capacities to demonstrate compliance with SFWMD recovery requirements.

- b. Given the applicant's statement that there is full retention of the 100-year 72-hour storm and no infiltration, other than evaporation, how will storage recovery for the retention occur if there is no discharge or no infiltration? The applicant should demonstrate that the system is capable of infiltrating the retention volume in accordance with applicable regulatory criteria to confirm that storage for subsequent events is available. It should be noted that the demonstration of infiltration would increase the potential for seepage flow with nutrients into the groundwater and surface waters.
- 4) The application states that the stormwater system will be self-contained (retention) and will exceed the capacity of the onsite reservoir only during storms larger than the 100-year 72-hour design storm event. This implies a potential increase in infiltration and seepage into the groundwater system and potentially into surface waters.
- a. The applicant has repeatedly acknowledged that the water levels in the onsite canals are routinely manipulated to raise or lower the groundwater levels in the fields. In this manner, the applicant has confirmed that the area groundwater system is directly connected to the canals onsite. Indeed, the applicant's RAI Response proposes to reduce the water levels in the onsite canals to depress the onsite groundwater levels beneath the V-ditches.
 - b. This direct surface water to groundwater connection allows for the transport of nutrients and other potential parameters from the proposed V-ditch into the onsite canals. It also allows for the transport of nutrients into offsite canals, when the water level in those canals is lower than the onsite groundwater table.
 - c. The discharges from the site flow to the C-25 Canal and ultimately discharge to the Indian River Lagoon, which is impaired, an Outstanding Florida Water, and an Estuary of National Significance.

Conclusions

As noted above, CDM Smith believes the applicant has not provided reasonable assurance of compliance with the applicable SFWMD requirements for the approval of the proposed ERP modification. At a minimum, we believe the SFWMD should issue a second RAI requesting the applicant to provide additional information concerning the proposed Project. In addition, we would recommend the following:

- (a) The system should be designed to prevent a direct connection between the stormwater in the biosolids composting areas and the groundwater (e.g., lined composting cells).
- (b) The applicant should demonstrate that the proposed system will provide 100-year 72-hour design storm retention volume and storage recovery with full retention.
- (c) It is imperative that the applicant develop and implement a surface and groundwater monitoring system to detect the potential migration of nutrients and other contaminants to offsite waters. The applicant's Project involves the construction of new facilities that have "high pollutant generating potential." As designed, the Project will discharge through the V-ditch to groundwater that drains into surface waters, which ultimately drain to impaired waters. The applicant has represented that the proposed Project will not degrade the water quality in the on-site canals or reservoir, or degrade the water quality in any off-site waterbody, because all of the water in the composting cells will be

Gary R. Priest, P.E.
August 27, 2018
Page 4

retained. The monitoring plan should be designed and implemented to determine whether the proposed system actually performs as proposed.

We trust the SFWMD will establish appropriate permit conditions that require the applicant to comply with the applicant's representations concerning the design, construction, operation, and maintenance of the proposed Project.

We appreciate the opportunity to provide comments on this Project. Please contact me at (954)-547-0149 if you have any questions or comments to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read 'S M N', is written over the word 'Sincerely,'.

Seth M. Nehrke, P.E., D.WRE
Principal Water Resources Engineer
CDM Smith

Cc: St Lucie County
Indian River County

ATTACHMENT B TO AFFIDAVIT OF SETH M. NEHRKE, P.E.
(CDM Smith letter dated December 27, 2018 to SFWMD)



December 27, 2018

Gary R. Priest, P.E.
Okeechobee Regulatory Office
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Subject: Sunbreak Farms Biosolids Composting Cells
Application to Modify SFWMD ERP No. 56-00111-S
Response to SFWMD RAI #2

Dear Mr. Priest:

At the request of St Lucie County, CDM Smith Inc. reviewed the application and supporting materials (collectively, "Application") filed on June 13, 2018 by Sunbreak Farms for a modification of the South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) No. 56-00111-S. After an initial review of the Application, the SFWMD issued a request for additional information ("RAI") on July 13, 2018. CDM Smith has reviewed this RAI, along with the RAI response package ("RAI Response") dated August 13, 2018 that was prepared by Sunbreak Farms. Subsequently, the SFWMD issued a second RAI on September 14, 2018. CDM Smith has reviewed this second RAI, along with the second RAI response package dated December 5, 2018 that was prepared by Sunbreak Farms.

In its Application, Sunbreak Farms requests authorization to construct approximately 80 acres of Biosolids Composting Cells (the "Project") that will be used to receive and process biosolids from domestic wastewater treatment plants. The FDEP issued a "Domestic Wastewater Facility Permit" (No. FLA9799830) that describes the Project as a "new, Type I Biosolids Management Facility with a permitted Class AA compost production of approximately 80,000 dry tons per year." The Application indicates that vegetative waste will be mixed with biosolids in a 3:1 ratio to produce compost. Thus, the production of 80,000 dry tons per year of compost will require the delivery and management of approximately 20,000 dry tons per year of biosolids. The FDEP permit indicates the solids content of biosolids may range from 1.75% for liquid biosolids to 17.75% for dewatered "cake." If we conservatively assume the biosolids will have a solids content of 20%, we calculate the Project will receive at least 100,000 wet tons of biosolids each year, and each acre of the composting cells will receive at least 1,250 wet tons of biosolids each year.

Based on our review of the Application and RAI Responses, CDM Smith has concluded that the Application currently does not provide reasonable assurance of compliance with the applicable standards for the issuance of an ERP modification. For this reason, as set forth below in our conclusions, we believe the SFWMD should request additional information from Sunbreak concerning the proposed Project.

In addition to the items of concern outlined in our previous letters dated July 11, 2018, and August 27, 2018, we offer the following additional observations and questions with respect to the Project and the proposed stormwater management system:

RAI Item #1 – this RAI requested a pre vs post nutrient analysis

Review of the RAI Response directs the reviewer to a BMPTRAINS Watershed Characteristics V 8.6 spreadsheet. We have the following comments:

- The BMPTRAINS tool is designed to determine surface runoff loads of nitrogen and phosphorus, and does not consider the implications of the nitrogen and phosphorus infiltrating through the soil to the surficial aquifer, and whether it will migrate to adjacent surface waters through groundwater discharge.
- The Directly Connected Impervious Area (DCIA) percentage is set at 0% for existing and 100% for proposed.
 - The result of this (combined with the increase in Curve Number from 89 to 98) is an increase in annual runoff of 259%, from 80.5 ac-ft/yr to 288.5 ac-ft/yr.
 - Examination of the increase in loadings reveals a significant increase in post-condition loadings:
 - Nitrogen loads increased 5313% from 262.95 kg/yr to 14233.15 kg/yr.
 - Phosphorus loads increased 4738% from 58.84 kg/yr to 2846.63 kg/yr.
- The applicant is assuming 98% removal efficiency with respect to both Nitrogen and Phosphorus – this is a very high removal rate, and is based on complete retention of all runoff.
- The conclusion as shown on the final page of the spreadsheet is that even with the elevated reduction rate of 98% the applicant is still increasing loading:
 - Nitrogen discharge increased 30% from 262.95 kg/yr to 341.6 kg/yr – it should be noted that this assumes zero treatment and zero removal in existing conditions, which may not be correct.
 - Phosphorus discharge increased 16% from 58.84 kg/yr to 68.32 kg/yr – it should be noted that this assumes zero treatment and zero removal in existing conditions, which may not be correct.
- Even assuming that a 98% removal rate is attainable, the nutrients that are “removed” are being infiltrated into the area groundwater table. This is a potentially significant increase in groundwater nutrient loading, which could migrate to adjacent canals and receiving waters.

RAI Item #2 – this RAI requested the operational monitoring method and plans for the groundwater table in the vicinity of the composting areas

Review of the water table management protocol resulted in the following observations:

- The protocols outlined in Section A to maintain the water table a minimum of 3' below the cells seems reasonable, however this may be greater than allowable across the site drawdown. This can also potentially induce legacy nutrients and other parameters out of the system.

- Section B is somewhat confusing, as it assumes that if water levels in area ditches is lowered it will result in acceptable water levels below the cells.
 - It is recommended that Section B be modified to require that water levels in the vicinity of the cells be confirmed via the measuring devices to be installed as detailed in Section A.
- It is recommended that Section C (during composting procedures) be strengthened by adding a time table for which water levels must be drawn down below target levels after the target is exceeded, otherwise composting activities must be halted or secondary measures must be employed. This will provide protection for when the measures outlined in Section B are not sufficient.
- Lastly, it should be noted that reducing groundwater levels in the vicinity of the retention system will serve to increase onsite retention.
 - While the reduced groundwater table increases the potential that some nutrients will be stored in the soil that would have previously entered the groundwater table, when groundwater levels are increased in composting conditions, the potential of remobilizing these nutrients is greater.

RAI Item #3 – this RAI requested a water quality monitoring plan and reporting schedule

For this response the applicant's engineer, Engineering Design & Construction, Inc. (EDC), engaged Dean Mead, attorneys at law to develop a response.

- The Dean Mead letter identifies the main concern is not the application of the biosolids fertilizer, but rather the actual act of composting – we would agree with this, however recent studies have brought into question the practice of land application of biosolids fertilizers.
- The Dean Mead letter states that nearly 90% of annual rainfall events (and the runoff) will be stored in the V-ditch, inside a containment berm.
 - This water will be infiltrated via the V-ditches and into the groundwater table, which is directly connected to the area surficial ditch system.
- The Dean Mead letter states that the system does not discharge to surface waters.
 - We know this is not always the case, as Sunbreak Farms discharges to the Minute Maid canal, and have done so within the past year.
- The Dean Mead letter states that the DEP permit allows that the permitted activities do not warrant groundwater monitoring.
 - The permit for Section III, Groundwater Requirements, states "Section III is not applicable to this facility". We feel that this is an oversight, as when the DEP permit was issued there is the potential that they were not aware of the means of proposed treatment of runoff (infiltration), which we feel has the potential to degrade area groundwater quality, also potentially effecting area surface waters, and should therefore be monitored.

- The Dean Mead letter presents a “grandfathered” argument where the applicant references that this is not a new drainage project where the existing system has been in place for decades.
 - This point is not relevant, as the applicant is proposing new activities (composting) and have already altered the existing system with the ripping of the soil that provides for a more direct connection to groundwater (and therefore connection to the surface water system through migration of groundwater). Any significant modification to a permitted surface water system requires a permit or permit modification.
- The Dean Mead letter presents a dilution argument, stating that the runoff from these areas is small, and therefore should be considered insignificant when compared to the overall area.
 - This argument is flawed - the concern is the amount of raw biosolids that they intend to route the runoff from into V-ditches, to be treated via infiltration into the ground, and then the groundwater table, which is directly connected to the area surficial ditch system.
- Lastly, the Dean Mead letter states that the applicant is not adding additional nutrients to its property as they argue that there is a net reduction in moving from traditional fertilizers to applying biosolids, and that this delta offsets any potential increase that could occur from composting.
 - While we agree there is a potential reduction to be realized through the transition from traditional fertilizers to biosolids, we feel that there is significant risk to sensitive downstream ecosystems through the introduction of onsite biosolids composting, and potentially through the application of biosolids fertilizers as well.

Conclusions

CDM Smith believes the applicant has not provided reasonable assurance of compliance with the applicable SFWMD requirements for the approval of the proposed ERP modification. At a minimum, we believe the SFWMD should issue a third RAI requesting the applicant to provide additional information concerning the proposed Project to clarify the aforementioned issues. In addition, we would recommend the following:

- (a) The system should be designed to prevent a direct connection between the stormwater in the biosolids composting areas and the groundwater (e.g., lined composting cells).
- (b) The applicant should demonstrate that the proposed system will provide 100-year 72-hour design storm retention volume and storage recovery with full retention. The application materials to date have not provided any infiltration or system recovery analysis information.
- (c) It is imperative that the applicant develop and implement a surface and groundwater monitoring system to detect the potential migration of nutrients and other contaminants to offsite waters. The applicant’s Project involves the construction of new facilities that have “high pollutant generating potential.” As designed, the Project will discharge through the V-ditch to groundwater that drains into surface waters, which ultimately drain to impaired waters. The applicant has represented that the proposed Project will not degrade the water quality in the on-site canals or reservoir, or degrade the water

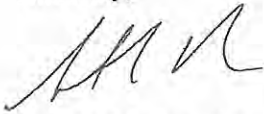
Gary R. Priest, P.E.
December 27, 2018
Page 5

quality in any off-site waterbody, because all of the water in the composting cells will be retained. The monitoring plan should be designed and implemented to determine whether the proposed system actually performs as proposed.

The SFWMD should establish appropriate permit conditions that require the applicant to comply with the applicant's representations concerning the design, construction, operation, and maintenance of the proposed Project.

We appreciate the opportunity to provide comments on this Project. Please contact me at (954)-547-0149 if you have any questions or comments to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read 'S M Nehrke', written in a cursive style.

Seth M. Nehrke, P.E., D.WRE
Principal Water Resources Engineer
CDM Smith

Cc: St Lucie County
Indian River County

ATTACHMENT C TO AFFIDAVIT OF SETH M. NEHRKE, P.E.
(CDM Smith letter dated April 18, 2019 to SFWMD)



April 18, 2019

Gary R. Priest, P.E.
Okeechobee Regulatory Office
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Subject: Sunbreak Farms Biosolids Composting Cells
Application to Modify SFWMD ERP No. 56-00111-S
Response to SFWMD RAI #3

Dear Mr. Priest:

At the request of St Lucie County, CDM Smith Inc. reviewed the application and supporting materials (collectively, "Application") filed on June 13, 2018 by Sunbreak Farms for a modification of the South Florida Water Management District (SFWMD) Environmental Resource Permit (ERP) No. 56-00111-S. After an initial review of the Application, the SFWMD issued a request for additional information ("RAI") on July 13, 2018. CDM Smith has reviewed this RAI, along with the RAI response package ("RAI Response") dated August 13, 2018 that was prepared by Sunbreak Farms. Subsequently, the SFWMD issued a second RAI on September 14, 2018. CDM Smith Inc. has reviewed this second RAI, along with the second RAI response package dated December 5, 2018 that was prepared by Sunbreak Farms. The SFWMD then issued a third RAI on January 11, 2019. CDM Smith Inc. has reviewed this third RAI, along with the third RAI response package dated April 1, 2019 that was prepared by Sunbreak Farms.

In its Application, Sunbreak Farms requests authorization to construct approximately 80 acres of Biosolids Composting Cells (the "Project") that will be used to receive and process biosolids from domestic wastewater treatment plants. The FDEP issued a "Domestic Wastewater Facility Permit" (No. FLA9799830) that describes the Project as a "new, Type I Biosolids Management Facility with a permitted Class AA compost production of approximately 80,000 dry tons per year." The Application states that vegetative waste will be mixed with biosolids in a 3:1 ratio to produce compost. Thus, the production of 80,000 dry tons per year of compost will require the delivery and management of approximately 20,000 dry tons per year of biosolids. The FDEP permit indicates the solids content of biosolids may range from 1.75% for liquid biosolids to 17.75% for dewatered "cake." If we conservatively calculate that the biosolids will have a solids content of 20%, we calculate the Project would receive at least 100,000 wet tons of biosolids each year, and each acre of the composting cells would receive at least 1,250 wet tons of biosolids each year.

Based on our review of the Application and the three RAI Responses, CDM Smith Inc. has concluded that the Application currently does not provide reasonable assurance of compliance with the applicable standards for the issuance of an ERP modification. For this reason, as set forth below in our conclusions, we recommend the SFWMD request additional information and clarification from Sunbreak concerning the proposed Project.

In addition to the items of concern outlined in our previous letters dated July 11, 2018, August 27, 2018, and December 27, 2018, we offer the following additional observations and questions with respect to the Project and the proposed stormwater management system:

RAI Item #1 – this RAI requested a geotechnical analysis or on-site pilot test to demonstrate that the proposed groundwater draw down methodology will work

Sunbreak Farms performed a water level draw down pilot study to show that they could hold the water approximately 3 ft below existing grade (required to hold it 1 ft below bottom of V-ditch which is 2 ft deep). We have the following comments:

- The analysis was performed in January & February, during the dry season when the groundwater table is already low.
- During the wet season the area groundwater levels are going to be higher. This raises several questions:
 - Are the pumps that move water from the ditches to the reservoir of sufficient size to keep up with the additional groundwater that will be present?
 - Are there temporal limits on when the farm can perform composting activities? If composting occurs during times of high groundwater then a demonstration needs to be made that the system is capable of performing under high area groundwater conditions.
- Simply depressing the groundwater does not alleviate the concern of pollutants/contaminants migrating into the groundwater and then offsite. It simply provides that there is capacity in the V-ditch to store runoff. Depressing the groundwater levels beneath the V-ditch will increase the rate of infiltration of runoff into the soil, but it does not limit the potential influx of pollutants/contaminants.
- Additionally, drawing the water table down in this manner can potentially induce legacy nutrients and other parameters out of the groundwater system (e.g., nutrients, pesticides, herbicides, and others).
- Also, while the reduced groundwater table increases the potential that some nutrients will be stored in the soil that would have previously entered the groundwater table, when groundwater levels are increased in composting conditions, the potential of remobilizing these nutrients is greater.
- Lastly, by drawing down the groundwater levels on Sunbreak Farms via the perimeter ditches there is the risk of unintentionally drawing down groundwater levels offsite. This could have potential adverse impacts on adjacent landowners' ability to beneficially use their own properties, and poses a potential risk to wetlands in the area.

It is recommended that if this methodology is approved by SFWMD, it would be appropriate to require monitoring of groundwater levels, and in the event that target groundwater levels are not maintained, composting activities must be promptly halted or secondary measures must be swiftly employed. This will provide some protection for when the measures proposed for groundwater protection are not sufficient.

RAI Item #2 – this RAI requested a demonstration that the existing reservoir complies with applicable criteria, and that the proposed stormwater management system will not result in adverse offsite impacts

A response was prepared by Dennis G. Corrick of Dean, Mead, Minton, and Zwemer, a law firm in Fort Pierce, FL. The assertion is made that no operational changes are proposed by the applicant other than the addition of “inside containment berms”.

- The Dean Mead letter once again presents a “grandfathered” argument where the applicant references that this is not a new drainage project where the existing system has been in place for decades.

This is not the case, since the applicant is proposing new activities (composting) and a modification to the associated stormwater management system to support these activities. The applicant has already altered the existing system with the “deep-ripping” of the soil that broke through some of the existing hard-pan aquiclude onsite and provides for a more direct connection to groundwater (and therefore connection to the area surface water system through migration of groundwater). Any significant modification to a permitted surface water system requires a permit or permit modification.

RAI Item #3 – this RAI requested an alternative to a water quality monitoring plan and reporting schedule

For this response the applicant’s engineer, Engineering Design & Construction, Inc. (EDC), engaged Dean Mead, its attorneys, to develop a response. The response states that this is a repeat of question #3 from the previous RAI, and that they previously responded to this, and that they have nothing further to add.

The previous response was not sufficient, and the previously provided comments are still relevant, and are listed below for reference and convenience.

- The Dean Mead letter states the main concern is not the application of the biosolids fertilizer, but rather the actual act of composting – we would agree with this, however recent studies and impacts to receiving waters have brought into question the practice of land application of biosolids fertilizers in proximity to impaired waters or pathways to impaired waters.
- The Dean Mead letter states that nearly 90% of annual rainfall events (and the runoff) will be stored in the V-ditch, inside a containment berm.

This water will be infiltrated via the V-ditches and into the groundwater table, which is directly connected to the area surficial ditch system.

- The Dean Mead letter states that the system does not discharge to surface waters.

We know this is not always the case, as Sunbreak Farms discharges to the Minute Maid canal, and have done so within the past year.

- The Dean Mead letter states that the DEP permit establishes that the permitted activities do not warrant groundwater monitoring.

The permit for Section III, Groundwater Requirements, states "Section III is not applicable to this facility". We feel that this is an oversight, as when the DEP permit was issued there is the potential that they were not aware of the means of proposed treatment of runoff (infiltration), which we feel has the potential to degrade area groundwater quality, also potentially affecting area surface waters, and should therefore be continuously monitored.

- The Dean Mead letter presents a "grandfathered" argument where the applicant references that this is not a new drainage project where the existing system has been in place for decades.

This point is not relevant, as the applicant is proposing new activities (composting) and have already altered the existing system with the ripping of the soil that provides for a more direct connection to groundwater (and therefore connection to the surface water system through migration of groundwater). Any significant modification like this one to a permitted surface water system requires a permit or permit modification.

- The Dean Mead letter presents a dilution argument, stating that the runoff from these areas is small, and therefore should be considered insignificant when compared to the overall area.

This argument does not properly consider that any increases in nutrient loads to the impaired Indian River Lagoon can contribute to adverse cumulative impacts. The concern is the amount of raw biosolids that the applicant intends to route the runoff from into V-ditches, to be treated via infiltration into the ground, and then the groundwater table, which is directly connected to the area surficial ditch system and could be transported via the canal system to the Indian River Lagoon.

- Lastly, the Dean Mead letter states that the applicant is not adding additional nutrients to its property as they argue that there is a net reduction in moving from traditional fertilizers to applying biosolids, and that this delta offsets any potential increase that could occur from composting.

While we agree there is a potential reduction to be realized through the transition from traditional fertilizers to biosolids, we feel that there is significant risk to sensitive downstream ecosystems through the introduction of onsite biosolids composting.

Conclusions

CDM Smith Inc. believes the applicant has still not provided reasonable assurance of compliance with the applicable SFWMD requirements for the approval of the proposed ERP modification. At a minimum, we believe the SFWMD should issue a fourth RAI requesting the applicant to provide additional information concerning the proposed Project to clarify the issues, concerns and questions set forth above. In addition, our previous recommendations remain largely unchanged. We recommend the following:

- (a) The system should be designed to prevent a direct connection between the stormwater in the biosolids composting areas and the groundwater (e.g., lined composting cells).
- (b) The applicant should demonstrate that the proposed system will provide 100-year 72-hour design storm retention volume and storage recovery with full retention. The application materials to date have not provided any infiltration or system recovery analysis information.
- (c) It is imperative that the applicant develop and implement a surface and groundwater monitoring system to detect the potential migration of nutrients and other contaminants to offsite waters. The applicant's Project involves the construction of new facilities that have "high pollutant generating potential." As designed, the Project will discharge through the V-ditch to groundwater that drains into surface waters, which ultimately drain to impaired waters (Indian River Lagoon). The applicant has represented that the proposed Project will not degrade the water quality in the on-site canals or reservoir, or degrade the water quality in any off-site waterbody, because all of the water in the composting cells will be retained. The monitoring plan should be designed and implemented to determine whether the proposed system actually performs as proposed.

The SFWMD should establish appropriate permit conditions that require the applicant to comply with the applicant's representations concerning the design, construction, operation, and maintenance of the proposed Project.

We appreciate the opportunity to provide comments on this Project. Please contact me at (954)-547-0149 if you have any questions or comments to discuss.

Sincerely,



Seth M. Nehrke, P.E., D.WRE
Principal Water Resources Engineer
CDM Smith Inc.

Cc: St Lucie County
Indian River County

STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

**RECEIVED
DISTRICT CLERK'S OFFICE**

SUNBREAK FARMS, LLC)

1:14 pm Jun 20, 2019

Petitioner,)

) SFWMD No.

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT**

vs.)

) ERP File No. 56-00111-S
) (Application No. 180613-16)

LB

)
) SOUTH FLORIDA WATER
) MANAGEMENT DISTRICT
)

) Respondent.
)
)

INDIAN RIVER COUNTY'S MOTION TO INTERVENE IN SUPPORT OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

The Board of County Commissioners of Indian River County, Florida ("County") hereby moves to intervene in this case, under Rule 28-106.205, Florida Administrative Code (F.A.C."). The County supports the Proposed Agency Action (dated May 24, 2019) that was issued by the Respondent, the South Florida Water Management District (the "District"). In its Proposed Agency Action, the District announced its intent to deny the application (the "Application") filed by Petitioner, Sunbreak Farms, LLC for a modification of an existing Environmental Resource Permit (ERP No. 56-00111-S) pertaining to property located at 5101 Minute Maid Rd., Ft. Pierce, in both St. Lucie

County and Indian River County (the "Property"). In support of this motion, the County states as follows:

1. The County is a political subdivision of the State of Florida and its main office is located at 1801 27th Street, Building A, Vero Beach, Florida 32960, with a telephone number of 772-567-8000. For the purposes of this proceeding, the County's address, telephone number, fax number and email address are as follows: Dylan Reingold, County Attorney, County Attorney's Office, 1801 27th Street, Building A, Vero Beach, Florida 32960, 772-226-1427 (phone), 772-569-4317 (fax) and dreingold@ircgov.com. The County owns land and operates various facilities located in the unincorporated areas of the County. The County also is responsible for the protection of the public health, safety, and welfare in the unincorporated areas of the County.

2. The Petitioner, who had filed the Application, is Sunbreak Farms, LLC, whose address is 5101 Minute Maid Rd., Fort Pierce, FL, 34945-4351.

3. Respondent, the District, is a regional governmental agency, whose address is 3301 Gun Club Road, West Palm Beach, FL 33406. The telephone number for the District is (561) 686-8800.

4. On June 11, 2019, Petitioner filed a Petition for Formal Administrative Hearing (the "Petition").

Statement of Position and Substantial Interest Affected

5. The County supports the District's Proposed Agency Action.

6. If the Application is approved, the Petitioner will be authorized to construct and operate a Type I Biosolids Management Facility (the "Proposed Facility") in unincorporated areas of St. Lucie County and Indian River County, Florida. The Proposed Facility will accept and process "biosolids," which is defined to mean the "solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility. ." (formerly known as residuals). See Rule 62-640.200(6), F.A.C. More specifically, the Proposed Facility will receive and process Class B biosolids, other organic wastes (e.g., chicken and animal manure), and bulking agents to produce up to 80,000 dry tons per year of Class AA biosolids. To produce this quantity of Class AA biosolids, it appears the Proposed Facility may receive up to 100,000 wet tons of biosolids each year.

7. In the Application, the Petitioner seeks authorization to modify an existing Environmental Resource Permit, which would allow for the construction and operation of a stormwater management system that would attempt to collect, retain and infiltrate the stormwater and leachate generated by the Proposed Facility.

8. The Property on which the Proposed Facility will be constructed and operated is approximately 6,580 acres in size and is located in the unincorporated areas of both St. Lucie County and Indian River County. Surface water runoff and other discharges from the Site will drain into the C-25 canal and into the Indian River Lagoon (the "Lagoon"). The Lagoon has been designated as an "impaired water" by the Department. The poor water quality in the Lagoon is caused in part by excessive amounts of nitrogen and phosphorus that drain into the Lagoon from upstream areas, including agricultural lands. Due to the excessive amounts of nitrogen and phosphorus, the Lagoon has experienced major algae blooms in recent years. These algae blooms have been unprecedented in their scope and severity, causing large areas of the Lagoon to be covered in thick mats of toxic blue-green algae. The impacts were devastating to the local ecosystems and dramatically reduced the use of the Lagoon for fishing, boating, and other recreational purposes.

9. While a majority of the Proposed Facility will be located in St. Lucie County, approximately 1,500 acres of the Proposed Facility will be located within the County.

10. The County is concerned the Proposed Facility will have significant adverse impacts on the County, its property, and the natural resources located in the County, including but not limited to the Lagoon. The County has spent millions of

dollars constructing and operating facilities that return the Lagoon to health by combatting these types of adverse impacts.

11. Additionally, the County owns 34.13 acres of property on 17th Street S.W. and 94th Avenue S.W., directly adjacent to the Property. The operation of the Proposed Facility on the Property, including but not limited to those described in the Application, could have a direct impact on the County's property.

Adoption of Issues

12. County's interests will be affected if the Application is approved for operations within the County's geographic area.

Compliance Statement

13. As required under Rules 28-106.205(2)(e) and 28-106.204(3), F.A.C., the undersigned counsel for the County has conferred with all parties of record, and the Petitioner objects to the County's intervention in this proceeding and Respondent has no objection to filing of the Motion.

WHEREFORE, the Board of County Commissioners of Indian River County respectfully requests the District to grant this Motion and thereby allow the Count to intervene in this administrative proceeding.

Respectfully submitted this 20th day of June, 2019.

INDIAN RIVER COUNTY



Dylan Reingold
County Attorney
Florida Bar NO. 544701
dreingold@ircgov.com
1801 27th Street, Building A
Vero Beach, FL 32960
Phone: 772-226-1427
Fax: 772-569-4317

STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RECEIVED
DISTRICT CLERK'S OFFICE

12:23 pm Jun 28, 2019

SUNBREAK FARMS, LLC,

Petitioner,

v.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,

Respondent.

SOUTH FLORIDA
WATER MANAGEMENT DISTRICT



ERP No. 56-00111-2
(Application No. 180613-16)

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT'S
MOTION TO INTERVENE IN SUPPORT OF SFWMD**

The St. Johns River Water Management District (SJRWMD), by and through its undersigned counsel, petitions for leave to intervene in this administrative proceeding in support of the Proposed Agency Action of South Florida Water Management District (SFWMD). On May 24, 2019, SFWMD provided its Notice of Proposed Agency Action to Deny the Application of Sunbreak Farms, LLC for a modification of an environmental resource permit (ERP). In its application, Sunbreak Farms, LLC ("Sunbreak") sought a permit modification to construct containment cells for on-site storage of Class AA compost. Sunbreak did not include a water quality monitoring plan to demonstrate the project will not adversely affect water quality of receiving waters, and SFWMD recommended denial of the application. SJRWMD supports inclusion of a water quality monitoring plan for this project, and pursuant to Rule 28-106.205, F.A.C., states:

I. Contact Information for SJRWMD's Attorneys in this Proceeding

SJRWMD will be represented by the following attorneys in this proceeding:

EXHIBIT E

A. Thomas I. Mayton, Jr.
4049 Reid Street, Palatka FL, 32178
tmayton@sjrwmd.com
phone: (386) 329-4108
fax: (386) 329-4485

B. Elizabeth Schoonover
4049 Reid Street, Palatka, FL 32178
eschoonover@sjrwmd.com
phone: (386) 643-1968
fax: (386) 329-4485

II. Statement of SJRWMD's Entitlement to Participate in this Proceeding

As the movant in this Motion to Intervene, SJRWMD must make "allegations sufficient to demonstrate that [it] is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or that the substantial interests of [SJRWMD] are subject to determination or will be affected by the proceeding... ." Rule 28-106.205, F.A.C. SJRWMD should be granted leave to intervene because Sunbreak's proposed project is within SJRWMD's regulatory jurisdiction. Additionally, Sunbreak's proposed project affects SJRWMD's substantial interests in obtaining comprehensive water quality monitoring data for the Upper St. Johns River Basin and Indian River Lagoon.

A. The Project is Within SJRWMD's Regulatory Jurisdiction

1. SJRWMD is a special taxing district created by Chapter 373, Fla. Stat., and is charged by Parts II and IV, Chapter 373, Fla. Stat., with the duty to prevent harm to the water resources and to administer and enforce the provisions of Chapter 373 and the rules promulgated thereunder.

2. On December 5, 2017, pursuant to subsection 373.046(6), Fla. Stat., SFWMD and SJRWMD entered into an Interagency Agreement which designated SFWMD as the water management district with regulatory responsibility for permitting consumptive uses of water under

Part II of Ch. 373, Fla. Stat., for Sunbreak. A copy of the CUP/WUP Interagency Agreement is attached to this Motion as Exhibit A.

3. On June 13, 2018, Sunbreak applied for a modification of its ERP from SFWMD to construct containment cells for production of Class AA compost. The modified project included parcels of land located within SJRWMD's jurisdiction.

4. On August 28, 2018, pursuant to subsection 373.046(6), Fla. Stat., SJRWMD and SFWMD entered into an Interagency Agreement which designated SFWMD as the water management district with regulatory responsibility for Sunbreak's application for ERP modification. A copy of the ERP Interagency Agreement is attached hereto and incorporated into this Motion as Exhibit B.

5. As Exhibit B describes, approximately 1,441 acres of Sunbreak's 6,580-acre proposed project is located within SJRWMD's jurisdictional boundaries. Absent this Agreement, the applicant would have needed to apply for a permit from SJRWMD for that portion of the project occurring within SJRWMD's jurisdiction. Thus, as the water management district with jurisdiction over part of Sunbreak's proposed activities, SJRWMD has a heightened regulatory interest in this application.

B. SJRWMD Has a Substantial Interest in Comprehensive Water Quality Monitoring Data

6. Sunbreak's application did not include a water quality monitoring plan.

7. Water quality monitoring provides data on the temporal and spatial locality of pollutants, including nutrients, and provides insights on sources of pollutants. SJRWMD is charged with the duty to protect, enhance, and monitor surface and ground waters. See §373.451(3), Fla. Stat. (1987), and §§373.016(2), 373.016(3)(b), 373.016(3)(f), 373.019(24), 373.145,

373.4131(1)(a)6., 373.416(3), 373.418(3)-(4), and 373.707(3)(b), Fla. Stat. (2018). Water quality monitoring is critical to SJRWMD's statutory mandates.

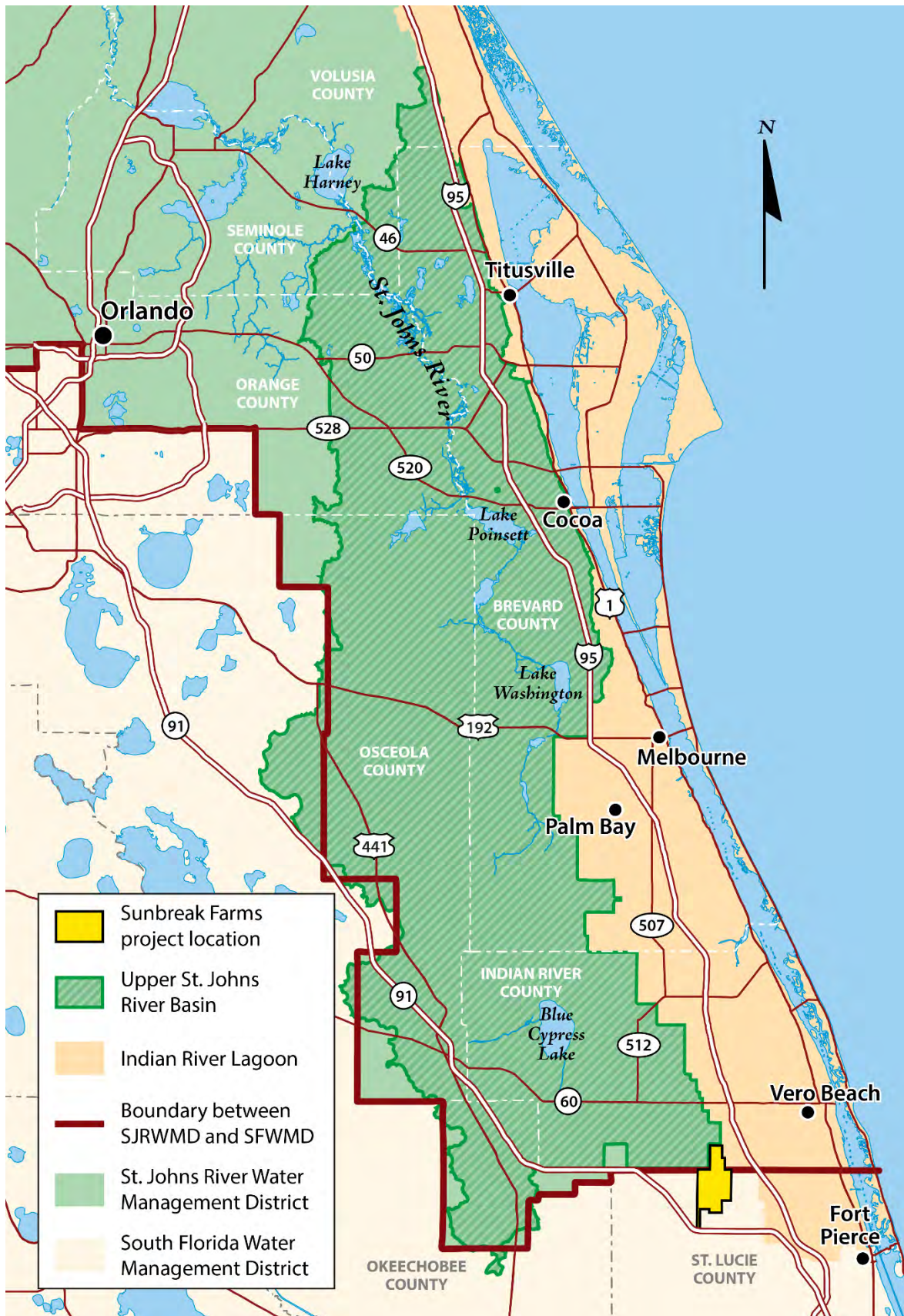
8. Protecting and restoring water quality is a core mission of SJRWMD¹. A key component of this work is water quality monitoring and reporting². To fulfill this mission, SJRWMD has invested significant time and resources in water quality monitoring, and significant time and resources in identifying projects which improve water quality through nutrient reduction or management.

St. Johns River, Upper St. Johns River Basin, and Indian River Lagoon

9. The boundaries of SJRWMD are generally based on the hydrologic basin of the St. Johns River, which begins in a drainage basin west of Vero Beach in Indian River County (at Fort Drum Creek) and travels north 310 miles where it exits to the Atlantic Ocean in Jacksonville in Duval County. As shown by the area in dark green hashmarks in the map on page 5 below, the Upper St. Johns River Basin (Upper Basin) contains the headwaters of the St. Johns River, which begin in Indian River, Okeechobee, Osceola, and Brevard counties, and extends to the confluence of the St. Johns and Econlockhatchee rivers in Seminole County, and includes part of Sunbreak's project that is located within the SJRWMD (in southern Indian River County).

¹ SJRWMD works to address water quality issues through a variety of activities, including cost-share projects with local governments, aquatic systems restoration and protection projects; permitting; land acquisition and management activities. Strategies to protect and restore water quality include a commitment to comprehensive monitoring to guide impairment determinations, manage restoration projects and evaluate effectiveness. These efforts are closely coordinated with many partners, including the Florida Department of Environmental Protection's total maximum daily load (TMDL) and basin management action plan (BMAP) programs. <https://www.sjrwmd.com/about/core/>

² <https://www.sjrwmd.com/data/water-quality/>



10. The Upper Basin originally contained more than 400,000 acres of floodplain marsh before it was diked and drained for agricultural purposes in the early 1900s. By the early 1970s, 62 percent of the marsh was gone. In 1977, the SJRWMD and the U.S. Army Corps of Engineers (USACE) embarked on an ambitious, long-term flood control project to restore lost natural flood protection to the Upper Basin.

11. The Upper Basin Project reclaimed drained marshlands by creating reservoirs and replumbing existing canals. The goals of this project included improving water quality and flood protection, reducing freshwater discharges to the IRL, providing for water supply, and restoring or enhancing wetland habitat. In May 2016, the SJRWMD and USACE celebrated the success of the Upper Basin Project, which is one of the largest and most ambitious flood control and wetland restoration projects in the world³. The project covers approximately 166,500 acres in Indian River and Brevard counties.

12. Based on a finding that that “the water quality of many of the surface waters of the state has been degraded, or is in danger of becoming degraded,” the Florida Legislature, through the Surface Water Improvement and Management (SWIM) Act of 1987, directed the State's water management districts to “design and implement plans and programs for the improvement and management of surface waters.” See §§ 373.451(2) and (6), Fla. Stat. (1987). Specifically, the Legislature found “that the *declining quality of the state’s surface waters has been detrimental to the public’s right to enjoy these surface waters* and that *it is the duty of the state, through the state’s agencies and subdivisions, to enhance the environmental and scenic value of surface waters.*” §373.451(3), Fla. Stat. (1987) (emphasis added).

³ In October 2008, the Upper Basin Project received the international Thiess River Prize, and in August 2016, the Florida Engineering Society named the Upper Basin Project as a Project of the Century. <https://www.sjrwmd.com/2016/08/district-partners-celebrate-milestone-at-upper-st-johns-river-basin-project/>

13. In 2007, SJRWMD adopted a SWIM plan for the Upper Basin. (The Upper Basin SWIM plan is attached as Exhibit C). The Upper Basin SWIM plan has two primary objectives: (1) water quality and (2) habitat assessment, protection, and restoration. The water quality objective “consists of two closely related strategies – *monitoring water quality* and plankton communities, and projects to improve water quality to meet designated uses and project goals.” (See page 3 of Upper Basin SWIM plan)(emphasis added).

14. As shown on the map above, the Indian River Lagoon (IRL) is a 156-mile-long estuary that stretches from Ponce de Leon Inlet in Volusia County to the southern boundary of Martin County and is located in both SJRWMD and SFWMD. Since the 1990s, efforts to restore and improve water quality in the IRL were paralleled by improving conditions in the lagoon. FDEP has established multiple Total Maximum Daily Load (TMDL) assessments and Basin Management Action Plans outlining efforts to reduce nutrient loading and improve water quality in various portions of the IRL. Recent algal bloom events and seagrass die-offs in the IRL suggest that ecologically critical systems are damaged by excessive nutrient loading from its watershed.

15. Specifically, SJRWMD has worked with federal, state, and local agencies to:

- Designate the IRL as a Surface Water Improvement and Management (SWIM) Act basin in 1987.
- Create the Indian River Lagoon National Estuary Program (NEP) in 1990, which SJRWMD sponsored until 2015, and now financially support the independent NEP Council annually.
- Eliminate effluent discharges to the lagoon from more than 40 wastewater facilities.
- Reduce freshwater discharges from the St. Johns River into the lagoon. In 2015, SJRWMD completed the Canal 1/Sawgrass Lake Water Management Area Project that diverts canal flows from the Turkey Creek and the lagoon, returning up to 43 percent of that drainage district’s discharges to the Upper St. Johns River

Basin. As a result, fewer nutrients, suspended solids and freshwater reach the IRL, thereby improving the estuary's water quality.

- Buy 52,600 acres of environmentally endangered land within the lagoon's watershed.
- Remove more than 95,000 cubic yards of muck sediments from Melbourne's Crane Creek in 1998, remove more than 380,000 cubic yards of muck sediments from Turkey Creek from 1999 to 2001, and remove about 2 million cubic yards of muck sediments from the St. Sebastian River from 2006 to 2009. Completed in March 2019, more than 600,00 cubic yards of muck sediments were recently removed from the Eau Gallie River, an IRL tributary. Each of these efforts were focused on reducing nutrient availability within the IRL.

16. These efforts and additional related projects by SJRWMD and other federal, state, and local entities, including SFWMD, Indian River County and St. Lucie County, are at risk of being adversely impacted.

17. The net movement of water in the IRL is from south to north, which means that nutrients and sediment discharged from the project into the C-25 canal can end up in the southern part of the IRL and flow north, adversely impacting the IRL within SJRWMD's jurisdiction.

18. Sunbreak's southern border is adjacent to the C-25 Canal. (See page 3 of attached Exhibit A CUP/WUP Interagency Agreement). The C-25 canal drains to the IRL via Taylor Creek.

Trends in Recent Water Quality Data

19. For more than 15 years, in compliance with TMDL (total maximum daily load) objectives, SJRWMD has monitored 36 water quality sites in the Upper Basin.⁴ More than 30% of the sites exhibited increasing total phosphorous concentration and the water quality monitoring data showed increased incidence of the toxic cyanobacteria *Microcystis* within the Upper Basin. Similarly, in the IRL, 67% of monitoring sites exhibited a statistically significant increasing trend in total phosphorous concentration.⁵

⁴ <https://www.sjrwmd.com/waterways/st-johns-river/upper/>

⁵ <https://floridaswater.maps.arcgis.com/apps/MapSeries/index.html?appid=229a09b80d714064a950fce02b8c47b5>

20. In the entire Upper Basin, SJRWMD has found patterns in surface water phosphorous concentrations correlated to Class B biosolid application. As of 2018, Class B biosolid application areas in the Upper St. Johns made up 12% of the entire Upper St. Johns River Basin area. From 2003 to 2018, cumulative application of phosphorus via the land application of Class B biosolids has increased from 328 tons to 1,318 tons in the Upper Basin. SJRWMD recognizes the necessity of biosolid management, and the potential agricultural benefits of biosolid application. However, these interests must be balanced with consideration of potential excessive nutrient enrichment of surface water and ground water.

21. SJRWMD routinely monitors both surface water and ground water quality. Nutrient enrichment can occur in both surface water and ground water.

22. Having a comprehensive monitoring and data collection plan demonstrating where, when, and from what sources pollutants enter waterbodies allows SJRWMD to effectively identify, design, and implement projects to improve water quality.

SJRWMD's Significant and Ongoing Investment in Water Quality Improvements

23. Since 1977, in an effort to achieve its five goals of improving water quality, reducing freshwater discharges to the IRL, providing for water supply, flood protection, and restoring or enhancing wetland habitat in the Upper Basin, SJRWMD has invested approximately \$241 million in land acquisition. Since 1986, SJRWMD has invested approximately \$76 million in project development, applied research, monitoring, management and implementation of projects in the Upper Basin.

24. From 2014 to date, SJRWMD has awarded more than \$16 million for 32 water projects in the IRL,⁶ leveraging a total of \$62.7 million in public dollars including local and state

⁶ <https://www.sjrwmd.com/renew-lagoon/>

matching funds. These 32 projects resulted in the removal of 94 tons of total phosphorous and 126 tons of total nitrogen from the IRL.

25. SJRWMD's substantial interests in the water quality and water resource protection of the IRL and Upper Basin would be materially and adversely affected by the lack of water quality monitoring of Sunbreak's project.

26. SJRWMD has a substantial interest in monitoring and protecting the water quality of the Upper Basin, including in the Sunbreak project area, for several reasons. First, SJRWMD has a statutory duty to protect and enhance surface waters. See §373.451(3), Fla. Stat. (1987), and §373.016(2), Fla. Stat. (2018). Second, part of the Sunbreak project is located within SJRWMD's regulatory jurisdiction. Third, SJRWMD has spent millions of dollars to improve and protect and restore the water quality of surface waters and to restore or enhance wetland habitat in the Upper Basin through SJRWMD's Upper Basin Project and Upper Basin SWIM Plan, and has an interest in protecting its investment in the environment. Fourth, and most importantly, the unmonitored release of nutrients (Phosphorus and Nitrogen) from the Sunbreak project has the potential to degrade the water quality in the IRL.

III. SJRWMD's Support of SFWMD's Preliminary Agency Action

27. SFWMD determined Sunbreak "has not provided reasonable assurances that the project will not result in adverse impacts to water resources. The applicant did not provide the requested water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design of the stormwater management system will function properly as required by Section 4.9.3, Volume II of the [SFWMD] Applicant's Handbook." (Page 2 of the SFWMD Staff Report, attached hereto as Exhibit D.) Based on the same reasons cited by SFWMD in requiring water quality monitoring for

biosolid storage and mixing facilities, and consistent with its own regulatory principles, SJRWMD requests to intervene in this administrative proceeding in support of SFWMD.

IV. Statement of Conferral with Counsel for Parties of Record

28. SJRWMD has conferred with counsel for the parties of record regarding opposition to this motion to intervene. Counsel for Petitioner Sunbreak Farms, LLC does object to this Motion to Intervene and will file a written objection to this Motion. Counsel for Respondent SFWMD does not object to this Motion to Intervene.

WHEREFORE, SJRWMD respectfully requests this tribunal grant this Motion to Intervene and allow SJRWMD to intervene in this administrative proceeding.

Signed this 28th day of June, 2019.

/s/ Thomas I Mayton, Jr.

Thomas I. Mayton, Jr.
Florida Bar No: 905909
Elizabeth S. Schoonover
Florida Bar No. 0028394
4049 Reid Street
Palatka, FL 32177-2529
Telephone: (386) 329-4108
Primary email: tmayton@sjrwmd.com
Primary email: eschoonover@sjrwmd.com
Secondary email: mperschnick@sjrwmd.com
Attorneys for Intervenor SJRWMD

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing was filed by electronic mail with the South Florida Water Management District, in care of the District Clerk (clerk@sfwmd.gov), and copies were served by email on John L. Wharton, Esq. and Dennis G. Corrick, Esq., *Counsel for Petitioner*, (jwharton@deanmead.com, dcorrick@deanmead.com and hshack@deanmead.com); Susan Roeder Martin, Esq., *Counsel for Respondent SFWMD*, (smartin@sfwmd.com), 3301 Gun Club Road, West Palm Beach, FL 33406; David S. Dee, Esq. and John T. LaVia, III, Esq., Counsel for Intervenor St. Lucie County, (ddee@gbwlegal.com and

jlavia@gbwlegal.com), 1300 Thomaswood Drive, Tallahassee, FL 32308 and Katherine Barbieri, Esq., (Barbierik@stlucieco.org), St. Lucie County Attorney's Office, 2300 Virginia Avenue, Ft. Pierce, FL 34982; and Dylan Reingold, Esq., *Counsel for Intervenor Indian River County*, (dreingold@ircgov.com), 1801 27th Street, Building A, Vero Beach, FL 32960, on June 28, 2019. Further, I hereby certify that (1) the original physically signed St. Johns River Water Management District's Motion to Intervene in Support of SFWMD dated June 28, 2019 will be retained by SJRWMD for the duration of the proceeding and any subsequent appeal or subsequent proceeding in that cause, and the SJRWMD shall produce the document upon the request of other parties; and (2) SJRWMD shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed.

/s/ Thomas I. Mayton, Jr.

Thomas I. Mayton, Jr.

**INTERAGENCY AGREEMENT BETWEEN
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND SOUTH FLORIDA WATER MANAGEMENT DISTRICT
FOR THE DESIGNATION OF REGULATORY RESPONSIBILITY
FOR APPLICATIONS RELATED TO THE SUNBREAK FARMS PROJECT**

THIS INTERAGENCY AGREEMENT ("Agreement") is made and entered into by and between ST. JOHNS RIVER WATER MANAGEMENT DISTRICT ("SJRWMD"), and SOUTH FLORIDA WATER MANAGEMENT DISTRICT ("SFWMD") on the last date signed by the parties.

WITNESSETH:

WHEREAS, on October 12, 2017, Sunbreak Farms, LLC submitted Water Use Permit Application No. 171012-13 ("Application") to SFWMD to modify their existing Permit No. 56-00111-W. Specifically, Sunbreak Farms, LLC proposes to modify a project, referred to as Sunbreak Farms ("Project"), composed of parcels located in St. Lucie and Indian River Counties. A map depicting the Project is attached hereto as Exhibit A.

WHEREAS, approximately 1,405.16 acres of the Project are located in Indian River County, Florida within SJRWMD's boundaries.

WHEREAS, approximately 5,866.87 acres of the Project, owned by Sunbreak Farms, LLC, are located in St. Lucie County, Florida, within SFWMD's boundaries.

WHEREAS, the purpose of the Project is the agricultural irrigation of 6,252 acres of grain corn using a flood/seepage irrigation system. Primary irrigation withdrawals are from the SFWMD C-25 canal and from the Upper Floridan aquifer, supplemented with captured stormwater stored within an existing 640-acre above-ground impoundment.

WHEREAS, Subsection 373.046(6), Fla. Stat., authorizes water management districts to designate, via an interagency agreement, regulatory responsibility to a single water management district when the geographic area of a project or local government crosses water management district boundaries.

WHEREAS, the designation of SFWMD as the water management district with Part II, Chapter 373, Fla. Stat., regulatory responsibility for the Application would allow for more efficient processing of permit applications and facilitation of the Project.

WHEREAS, SFWMD and SJRWMD desire to designate SFWMD as the water management district with the Part II, Chapter 373, Fla. Stat., regulatory responsibility for the Application.

NOW THEREFORE, SFWMD and SJRWMD, under the authority of Section 373.046, Fla. Stat., hereby agree as follows:

1. The SFWMD is designated as the water management district that will have all regulatory responsibilities under Part II of Chapter 373, Fla. Stat., for the review of water use permit applications for the Project. Such regulatory responsibilities shall include receiving, processing, and taking final agency action on all water use permit applications, or modifications thereof, and any permit compliance and enforcement action.
2. This Agreement will commence upon execution by all parties and will remain in effect until either party terminates such agreement for its convenience upon ninety (90) days written notice to the other party.
3. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same document. Facsimile and/or electronic signature shall be deemed an equivalent to an original for each counterpart.

IN WITNESS WHEREOF, each party, or its lawful representative, has executed this Agreement on the date set forth next to their signature below.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

Attest:



Name: William Abrams
Title: General Counsel

By:



Name: Ann B. Shortelle, Ph.D.
Title: Executive Director
Date: December 1, 2017

(Seal)

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

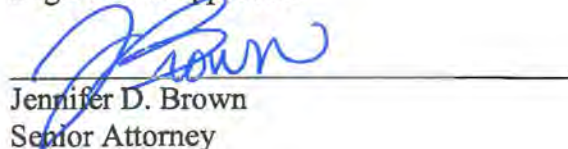


Jill S. Creech, P.E.
Director, Regulation Division



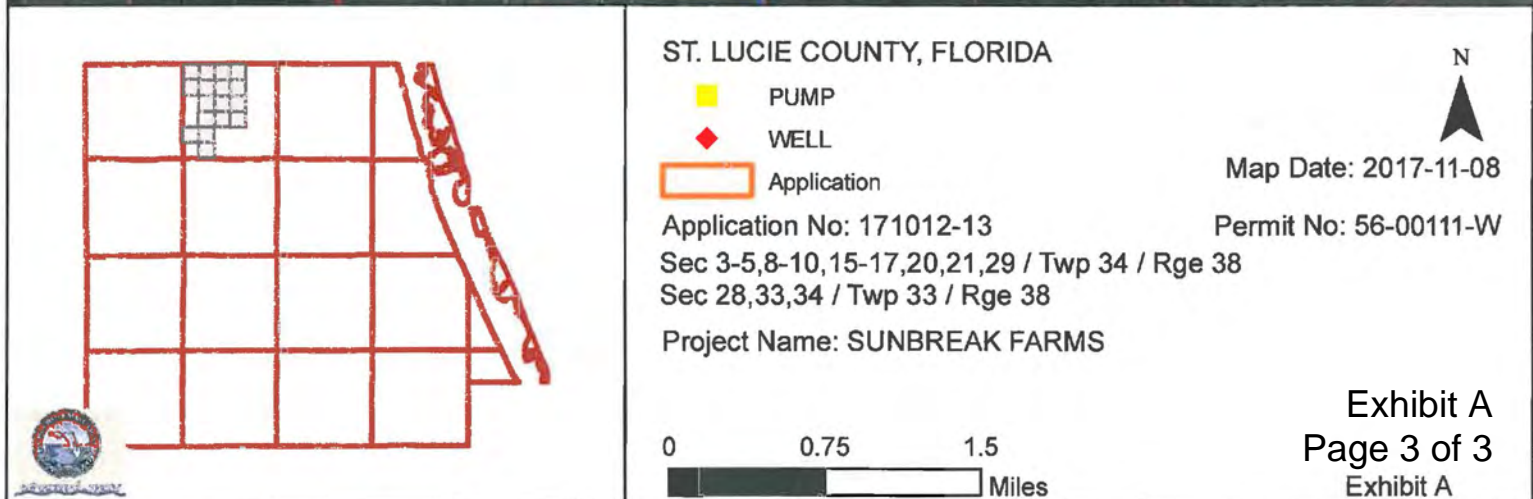
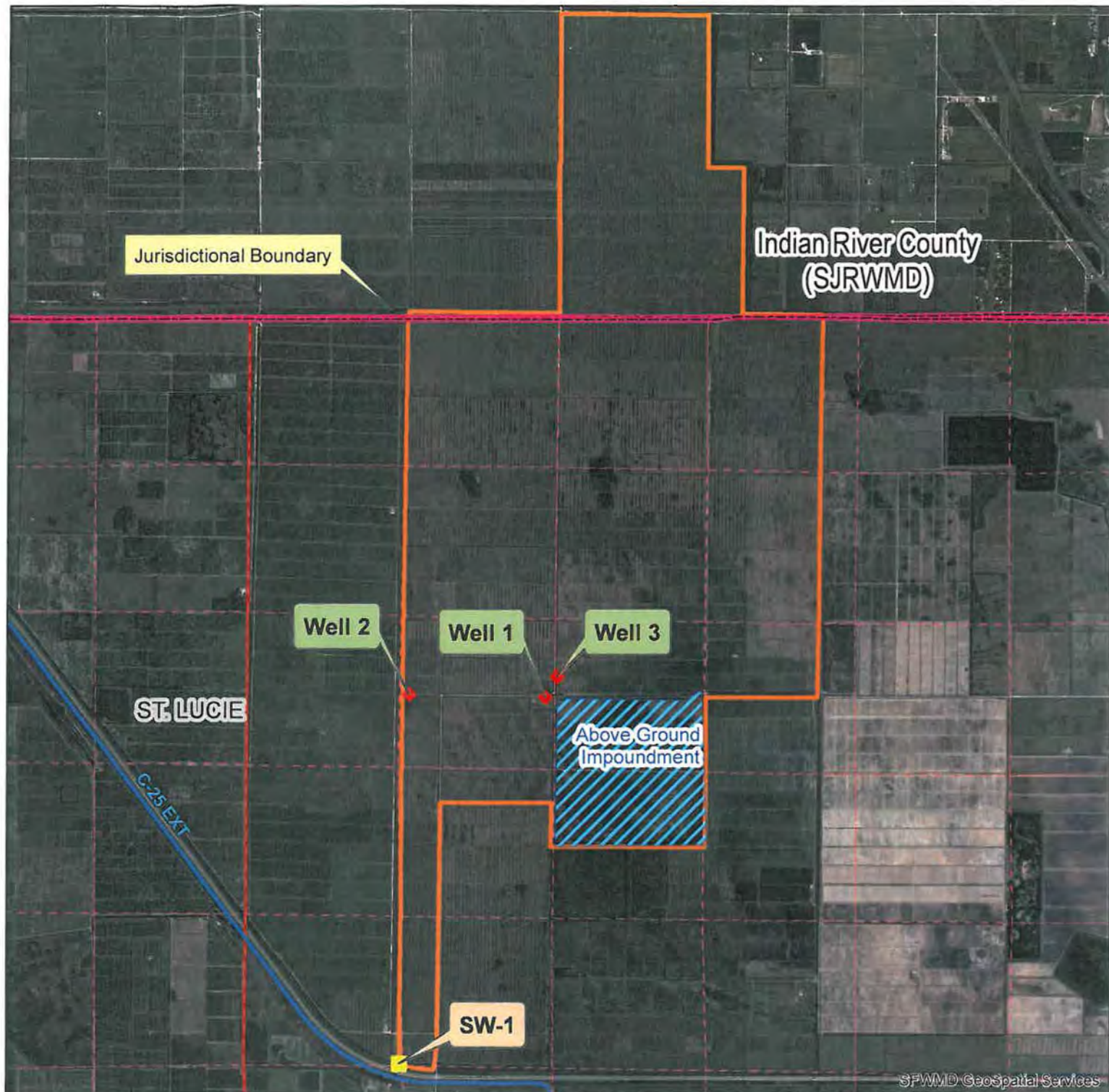
District Clerk/Secretary
Date: December 05, 2017

Legal Form Approved:



Jennifer D. Brown
Senior Attorney





**INTERAGENCY AGREEMENT BETWEEN
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND SOUTH FLORIDA WATER MANAGEMENT DISTRICT
FOR THE DESIGNATION OF REGULATORY RESPONSIBILITY
FOR APPLICATIONS RELATED TO THE SUNBREAK FARMS**

THIS INTERAGENCY AGREEMENT ("Agreement") is made and entered into by and between ST. JOHNS RIVER WATER MANAGEMENT DISTRICT ("SJRWMD") and SOUTH FLORIDA WATER MANAGEMENT DISTRICT ("SFWMD") on the last date signed by the parties.

WITNESSETH:

WHEREAS, Sunbreak Farms, LLC proposes a project, referred to as Sunbreak Farms ("Project"), composed of parcels located in two water management districts in St. Lucie and Indian River Counties. A map depicting the Project is attached hereto as Exhibit A; and

WHEREAS, the Project involves improvements to existing access roads and the construction of berms within each cell identified on the Overall Compost Exhibit, attached hereto as Exhibit B, to contain the 100-year, 3-day storm event in cells where biosolids will be placed; and

WHEREAS, these improvements may occur within Cells 34-41, as identified on Exhibit B, which are located within the St. Johns River Water Management District; and

WHEREAS, the majority of the Project (approximately 5,939 acres) is located within the jurisdictional boundaries of SFWMD and the balance of the Project (approximately 1,441 acres) is located within the jurisdictional boundaries of the SJRWMD; and

WHEREAS, on June 13, 2018 Sunbreak Farms, LLC submitted Application No. 180613-16 ("Application") to SFWMD to modify its existing Permit No. 56-00111-S; and

WHEREAS, Subsection 373.046(6), Fla. Stat., authorizes water management districts to designate, via an interagency agreement, regulatory responsibility to a single water management district when the geographic area of a project crosses water management district boundaries; and

WHEREAS, the designation of SFWMD as the water management district with Part IV, Chapter 373, Fla. Stat., regulatory responsibility for the Application would allow for more efficient processing of permit applications and facilitation of the Project; and

WHEREAS, SFWMD and SJRWMD desire to designate SFWMD as the water management district with the resource management responsibility for the Project and the Part IV, Chapter 373, Fla. Stat., regulatory responsibility for the Application; and

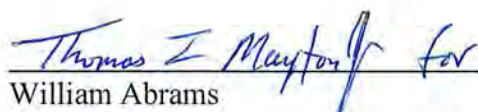
NOW THEREFORE, SFWMD and SJRWMD, under the authority of Section 373.046, Fla. Stat., hereby agree as follows:

1. The SFWMD is designated as the water management district that will have all regulatory responsibilities under Part IV of Chapter 373, Fla. Stat., for the review of environmental resource permit applications for the Project. Such regulatory responsibilities shall include receiving, processing, and taking final agency action on all environmental resource permit applications, or modifications thereof, and any permit compliance and enforcement action.
2. The SFWMD is designated as the water management district with authority to conduct all applicable resource management responsibilities for this Project.
3. The SFWMD will require Sunbreak Farms, LLC to provide SJRWMD with copies of deliverables required by the permits for the Project.
4. This Agreement will commence upon execution by all parties.
5. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same document. Facsimile and/or electronic signature shall be deemed an equivalent to an original for each counterpart.

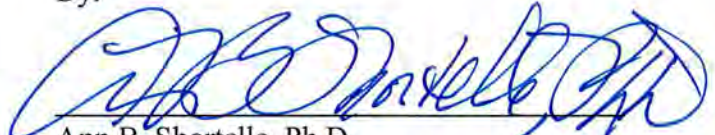
IN WITNESS WHEREOF, each party, or its lawful representative, has executed this Agreement on the date set forth next to their signature below.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

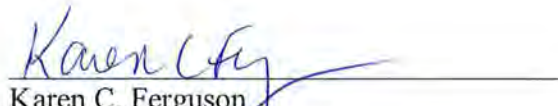
Attest:


William Abrams
General Counsel


By:


Ann B. Shortelle, Ph.D.
Executive Director
Date: August 15, 2018

Legal Form Approved:


Karen C. Ferguson
Assistant General Counsel

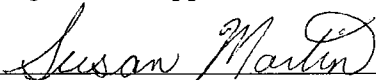
SOUTH FLORIDA WATER MANAGEMENT DISTRICT



Jill S. Creech, P.E.
Director, Regulation Division

Date: 08/28/18, 2018

Legal Form Approved:



Susan Roeder Martin
Practice Group Expert Attorney

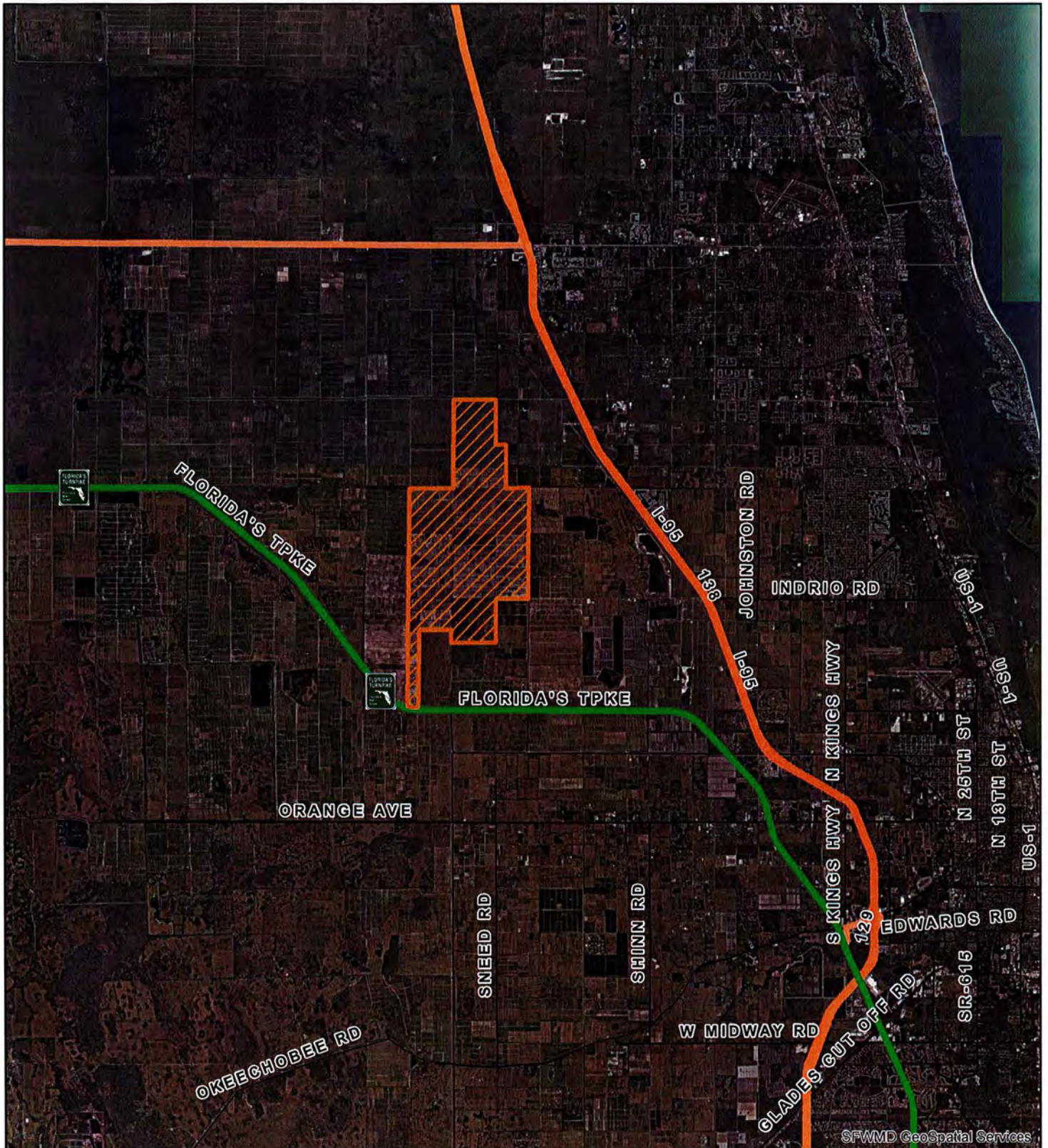


Exhibit No: A

Exhibit Created On:
2018-07-17

ST. LUCIE COUNTY, FL

REGULATION DIVISION

Project Name: SUNBREAK FARMS



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Miles



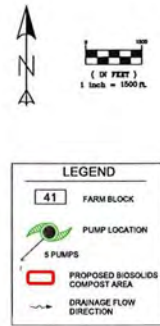
Application

Permit No: 56-00111-S

Application Number: 180613-16

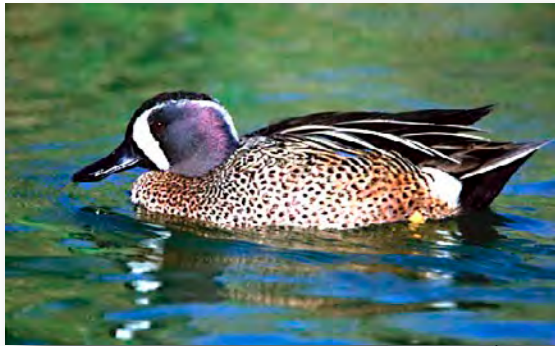


South Florida Water Management District
Exhibit B

[illegible]

Upper St. Johns River Basin Surface Water Improvement and Management Plan

March 21, 2007



Upper St. Johns River Basin

Surface Water Improvement & Management Plan

March 21, 2007

Cover photographs

American Alligator (*Alligator mississippiensis*), Blue winged Teal (*Anas discors*),
Common rotifer (*Brachionus sp.*), S-96 Water Control Structure

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EXECUTIVE SUMMARY

Overview

In recognition of the need to place additional emphasis on the restoration, protection and management of the surface water resources of the State, the Florida Legislature, through the Surface Water Improvement and Management (SWIM) Act of 1987, directed the State's water management districts to "design and implement plans and programs for the improvement and management of surface water" (Section 373.451, Florida Statutes). Under the SWIM Act, water management districts prioritize water bodies based on their need for protection and/or restoration. This prioritization process is carried out in cooperation with the Florida Department of Environmental Protection (FDEP), the Department of Agriculture and Consumer Services (DACS), the Department of Community Affairs (DCA), and local governments.

Recognizing the need for continued protection and restoration the St. Johns River Water Management District (SJRWMD) approved the Upper St. Johns River Basin (USJRB) as a priority waterbody in October 2005. This USJRB SWIM Plan has been prepared in accordance with the SWIM Act, which mandates that a SWIM Plan must be drafted, reviewed and approved before State SWIM funds can be spent on restoration, protection or management activities.

Upper St. Johns River Basin Summary

The Upper St. Johns River Basin (USJRB) extends from the headwaters of Ft Drum Creek northward to its confluence with the Econlockhatchee River, a distance of over 110 river miles (Figure 1). The river drops an average of only 1 foot per 5 river miles. This slight gradient and large floodplain allows the Upper St. Johns River and surrounding marshes to function as a water storage area, serving as a natural regulator of high and low water stages.

The western side of the basin is defined by the Osceola Ridge, which rises 60 to 80 feet above sea level. The basin extends along the western edge of Brevard and Indian River counties and occupies small portions of both eastern Orange and Seminole counties. Forty-six blackwater streams flow east from the ridge into the Upper St. Johns River. Historically, these tributaries naturally overflowed into adjacent swamps and marshes, and the river channel. The eastern side of the watershed is separated from the coastal basin by the Atlantic Coastal Ridge, which extends along the eastern edges of both Indian River and Brevard counties. The east side of the river valley is relatively flat, and originally supported a densely vegetated marsh. Several areas that historically drained to the St. Johns River have been diverted to the Indian River Lagoon Basin through canals cut through the Atlantic Coastal Ridge. The most notable diversions are the C-1 and C-54 canals, and the area drained by the Indian River Farms Water Control District.

There are several shallow lakes in the basin. These include Blue Cypress, Hell'n Blazes, Sawgrass, Little Sawgrass, Washington, Winder, Florence, Poinsett, and Puzzle lakes. Lakes in the basin comprise approximately 42 square miles or 2.4 percent of the total basin area. Lake Washington is important as the primary public water supply for the City of Melbourne.

Upper St. Johns River Basin Project

In 1948 the U.S. Congress authorized the Central and Southern Florida Flood Control Project and the Florida Legislature created the Central and Southern Florida Flood Control District (CSFFCD) to act as the local sponsor for the federal flood control project. In 1954 the Act was amended to include project works within the USJRB portion of the larger flood control project. In coordination with the CSFFCD, the U.S. Army Corps of Engineers (USACE) Jacksonville District prepared a project plan that was completed in 1957. A modified plan was adopted in 1962, and initial construction of the project began in 1966 (USACE 1991).

In 1977, local sponsorship for the project was transferred from the CSFFCD to SJRWMD. SJRWMD has designed an innovative plan with USACE to revitalize the river's flow by restoring drained marshlands, plugging canals and building reservoirs.

Conditions leading to the need for restoration and protection

In September 2003, FDEP published a USJRB status report that provided a *Planning List*, or preliminary identification, of potentially impaired waterbodies within Basin. This year (2006) FDEP has completed the USJRB Assessment Report that presents the results of additional data gathered during Phase 2 of the cycle.

FDEP's assessment shows that nine waterbodies or waterbody segments (Table ES-1) in the Upper St. Johns River Basin are impaired for nutrients and dissolved oxygen and require the development of Total Maximum Daily Load allocations. TMDLs for three of the waterbody segments; 2893L, 2893Q, and 2893X, have already been developed by FDEP.

Table ES-1. FDEP 303(d) Verified Listed Waterbodies for the USJRB

WBID	Water Body Name	Priority	Parameter(s)	TMDL Development" Year
3073	Crabgrass Creek	Medium	Copper, Coliforms, Nutrients (chlorophylla	2008, 2009(Copper)
2893K	Lake Poinsett	Medium	DO, Nutrients (TSI)	2008
2893L	St. Johns River above Lake Poinsett	High	DO, Nutrients (Historical Chlorophylla	2004
2893I	St. Johns River above Puzzle Lake	Medium	DO, Nutrients (Historical Chlorophylla	2008
2983Q	Lake Hell'n Blazes	High	DO, Nutrients (TSI)	2004
2893X	St. Johns River above Sawgrass Lake	High	DO, BOD	2004
3108C	Three Forks	Medium	DO	2009
28931	Sawgrass Lake	Medium, Low	DO, Mercury (Fish)	2009, 2011(Mercury)
28935	St. Johns River above Puzzle Lake	Medium	DO	2009

Other potential impaired waterbodies include Tosohatchee and Jim creeks. Both are potentially impaired because of low Dissolved Oxygen levels. Jim Creek is additionally potentially impaired because of failed biological assessments.

Analyses conducted by the SJRWMD also indicate that water bodies in the USJRB are impaired by high nutrient concentrations. Pollutant load reduction goals were set to prevent dominance of cyanobacteria by achieving concentrations of total phosphorus ≤ 100 ug/L.

Overall Management Strategy

The basic strategy of restoring, protecting and managing the surface water resources of the Upper St. Johns River Basin is through the use of a prioritized, objective, applied, sustainable, ecosystem or watershed approach with periodic public review and input. The USJRB SWIM Plan is organized around a project delivery system of goals, initiatives, strategies and action steps.

In this system, the *Goals* are broad-based and identify the objectives of SJRWMD, as stated above. *Initiatives* are general categories of problem areas developed by SJRWMD staff. *Strategies* are detailed descriptions of the underlying work proposed to achieve results. They identify the approaches and methods that will be used to implement the initiatives. *Action Steps* represent specific activities under each strategy suggested to reach project delivery. The *Action Steps* briefly describe the research and feasibility studies and associated tasks to reach the targeted *Strategy* as required the Florida Administrative Code. Each *Action Step* includes a schedule for completion and an estimate of the funding requirements needed to accomplish the *Action Step*. These *Action Steps*, as well as the *Strategies* and *Initiatives* referenced above, are not mutually exclusive, and may be undertaken concurrently, and/or sequentially.

The USJRB SWIM Plan focuses on two primary initiatives:

Initiative 1 – Water quality

This initiative consists of two closely related strategies – monitoring water quality and plankton communities, and projects to improve water quality to meet designated uses and project goals.

Initiative 2 – Habitat Assessment, Protection and Restoration

This initiative consists of strategies to gather and assess data on habitat and species needed to develop a comprehensive plan for monitoring biologic conditions in the basin to ensure achieving the overall biological goal of the Upper Basin Program that is the preservation of biodiversity and restoration of the productivity of economically important species.

In its mandate to address broad ecosystem needs, the USJRB SWIM Plan attempts to accomplish comprehensive protection strategies within the USJRB and introduce sustainable restoration strategies for resources or resource areas that are proven to be degraded. The intent is to also provide cooperative funding for projects addressing long-term waterbody protection and restoration.

A number of strategies and associated action steps were developed to fulfill these initiatives. The strategies for each initiative are listed as follows:

Water Quality Initiative

- Monitor water quality and plankton communities and assess trends.
- Improvement and Maintenance of Surface Waters

Habitat Assessment, Protection and Restoration Initiative

- Hydrologic monitoring
- Develop hydrologic models which can accurately predict water levels for the current and future basin conditions based on the historical rainfall data.
- Assess biological resources of the basin and initiate monitoring to track changes.
- Acquire and restore lands necessary for flood protection, water quality improvement and water supply.

The successful implementation of this plan is going to require staff resources and dedicated funding. To accomplish all of the action steps in this ambitious endeavor, it is estimated that full implementation of the USJRB SWIM Plan will cost \$30.27 million over the next five years to complete. The following table shows funding estimates by initiative.

Initiative	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
Water Quality	\$6.89M	\$6.39M	\$6.31M	\$4.01M	\$3.96M
Habitat Assessment, Protection, and Restoration	\$0.501M	\$0.847M	\$0.615M	\$0.527M	\$0.210M
Totals	\$7.39M	\$7.24M	\$6.93M	\$4.54M	\$4.17M

INTRODUCTION

The SWIM Act

In recognition of the need to place additional emphasis on the restoration, protection and management of the surface water resources of the State, the Florida Legislature, through the Surface Water Improvement and Management (SWIM) Act of 1987, directed the State's water management districts to "design and implement plans and programs for the improvement and management of surface water" (Section 373.451, Florida Statutes). The SWIM legislation requires the water management districts to protect the ecological, aesthetic, recreational, and economic value of the State's surface water bodies, keeping in mind that water quality degradation is frequently caused by point and non-point source pollution, and that degraded water quality can cause both direct and indirect losses of aquatic habitats.

Under the SWIM Act, water management districts prioritize water bodies based on their need for protection and/or restoration. This prioritization process is carried out in cooperation with the Florida Department of Environmental Protection (FDEP), the Department of Agriculture and Consumer Services (DACS), the Department of Community Affairs (DCA), and local governments.

Recognizing the need for continued protection and restoration the St. Johns River Water Management District (SJRWMD) approved the Upper St. Johns River Basin (USJRB) as a priority waterbody in 2005. This USJRB SWIM Plan has been prepared in accordance with the SWIM Act, which mandates that a SWIM Plan must be drafted, reviewed and approved before State SWIM funds can be spent on restoration, protection or management activities.

Acknowledgements

The USJRB SWIM planning project was managed and edited by Mary Ann Lee Ph.D., Technical Program Manager, and Hector Herrera, P.E., Senior Project Manager for SJRWMD. Denis W. Frazel, Ph.D. (Frazel, Inc.), assisted with the development and preparation of the USJRB SWIM Plan through the collaborative efforts of SJRWMD staff. Special thanks are due to the following SJRWMD staff for their individual and collective efforts:

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SECTION A.

DESCRIPTION OF THE WATER BODY SYSTEM

A.1. Upper St. Johns River Basin

A.1.1. Introduction

The Upper St. Johns River Basin (USJRB) extends from the headwaters of Ft Drum Creek northward to its confluence with the Econlockhatchee River, a distance of over 110 river miles (Figure 1). The river drops an average of only 1 foot per 5 river miles. This slight gradient and large floodplain allows the Upper St. Johns River and surrounding marshes to function as a water storage area, serving as a natural regulator of high and low water stages.

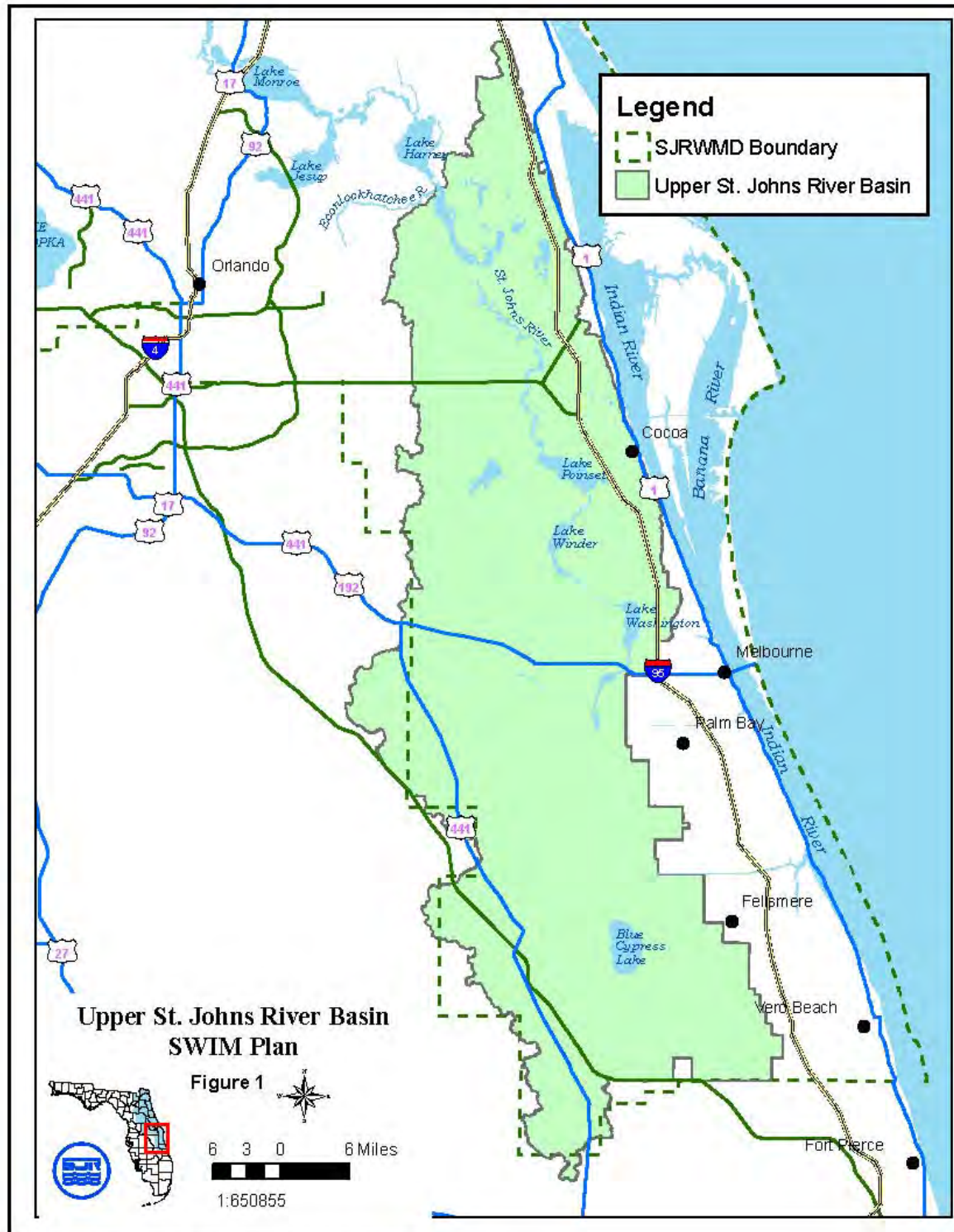
The western side of the basin is defined by the Osceola Ridge, which rises 60 to 80 feet above sea level. The basin extends along the western edge of Brevard and Indian River counties and occupies small portions of both eastern Orange and Seminole counties. Forty-six blackwater streams flow east from the ridge into the Upper St. Johns River. Historically, these tributaries naturally overflowed into adjacent swamps and marshes, and the river channel. The eastern side of the watershed is separated from the coastal basin by the Atlantic Coastal Ridge and extends along the western edges of both Indian River and Brevard counties. The east side of the river valley is relatively flat, and originally supported a densely vegetated marsh.

There are several shallow lakes within the basin.. These include Blue Cypress, Hell'n Blazes, Sawgrass, Little Sawgrass, Washington, Winder, Florence, Poinsett, and Puzzle lakes. Lakes in the basin comprise approximately 42 square miles or 2.4 percent of the total basin area. Lake Washington is important as the primary public water supply source for the City of Melbourne.

Over 280 species of wildlife have been documented as occurring, or having the potential to occur, in the Upper Basin. For many years, the Upper Basin wetlands were considered among the best wintering waterfowl habitat in the state. The chain of lakes that flowed through the marshes supported an exceptional fishery, with more than 50 species of fish recorded from the area. As a consequence of its rich fishery and expansive wetland habitats, the Upper Basin supported large breeding colonies of wading birds such as snowy egrets, wood storks, and white ibis (SJRWMD 1993).

During the past 50 years extensive alterations to the river system have occurred. By the early 1970's, 62 percent of the 100-year floodplain, and 42 percent of the annual floodplain had been diked, drained, and converted to agricultural production. By 1983, only 35 percent of the original floodplain remained, and drainage patterns had been severely altered. These activities significantly impacted the hydroperiod of the basin by reducing water retention times and accelerating flows.

As a result, the land's natural ability to provide flood control and maintain water quality has been compromised, and significant declines in wildlife and fish populations have occurred. Remaining wetlands were degraded by alterations in hydrology and increases in nutrients



caused by stormwater runoff. In addition, inter-basin diversions of fresh water to the Indian River Lagoon, combined with stormwater runoff, often caused sudden and sustained decrease in salinity, resulting in adverse impacts to the Lagoon (Lowe, et al. 1984).

Although the Upper St. Johns River has been severely affected by development, it remains an ecosystem of state-wide and national significance. The Upper Basin contains the largest freshwater marsh in the region, and is one of the largest in the state. Duck counts can exceed 10,000, while sport fishing continues as a regionally important recreational activity. Significant wading bird rookeries are present. Perhaps most importantly, the Upper Basin remains a significant area for preservation of biological diversity, as evidenced by the number of endangered species present. Several habitats found within the basin - floodplain marsh, floodplain swamp, scrub, and blackwater stream - are considered imperiled statewide.

A.1.2. Historical Uses

The Upper Basin originally encompassed over one million acres, including nearly 400,000 acres of floodplain marsh that formed the headwaters of the river. In addition, this complex and diverse ecosystem represented a mosaic of interconnected habitat types including floodplain wetlands, river channel, shallow lakes, mesic flatlands, and xeric uplands. The ecological integrity of this riverine ecosystem is dictated primarily by hydrologic influences (i.e. water level fluctuation and flow), which result from seasonal rainfall patterns. Small variations in topography, in conjunction with seasonally fluctuating water levels, create hydrologic conditions suitable for a number of plant communities.

In the late 1800s, ambitious pioneers began implementation of reclamation efforts including water management “improvements” to control floods and drain extensive areas of the upper St. Johns River marshlands for agricultural production and private development. A large drainage system in northwestern Indian River County was one of the first significant water management works constructed in the USJRB. A road grade and a drainage canal—the Fellsmere Canal—were constructed across the marsh to connect the hamlet of Fellsmere with the small outpost of Kenansville. Other canals followed, cutting through a low coastal land ridge that separated waters in the USJRB from the Indian River Lagoon—one of the most biologically diverse estuaries in North America. Through these canals, large amounts of freshwater were diverted from the St. Johns River watershed to the Indian River Lagoon and the Atlantic Ocean. As more dikes were constructed and large pumping stations were installed to meet private flood protection needs, thousands of acres of nutrient-rich floodplains were opened for agricultural production.

Within seven decades, about 70% of the fertile wetlands had been converted into agricultural fields to support the production of citrus, row crops, and beef cattle. Loss of wetland habitat due to floodplain encroachment practices (e.g., farming) greatly reduced floodplain storage and conveyance capacity in the river and severely altered the natural hydrologic and ecological regime of the marsh ecosystem. The impact of lost floodplain storage and conveyance capacity was especially acute after major storms in the 1920s and 1940s resulted in devastating floods in the central and southern parts of Florida. Thus, the need for a massive flood control project became important during the 1940s.

The history of modern public flood control projects in Florida formally began in 1948 when the U.S. Congress authorized the Central and Southern Florida Flood Control Project and the Florida Legislature created the Central and Southern Florida Flood Control District (CSFFCD) to act as the local sponsor for the federal flood control project. The original congressional act, which did not include areas within the USJRB, was amended in 1954 to include project works within the USJRB portion of the larger flood control project. In coordination with the CSFFCD, the U.S. Army Corps of Engineers (USACE) Jacksonville District prepared a project plan that was completed in 1957. A modified plan was adopted in 1962, and initial construction of the project began in 1966 (USACE 1991).

Under the 1962 plan, flood stages would be reduced in the upper reaches of the St. Johns River by diverting large amounts of water during major storm events from the St. Johns River to the Indian River Lagoon via the C-54 canal (Sebastian Canal). Upstream of C-54, flood stages would be attenuated by the detention and storage of surface water runoff in large upland reservoirs located west of the river valley. By 1969, the C-54 canal was fully operational and a major upland levee and reservoir system (L-73 and associated structures) was near completion.

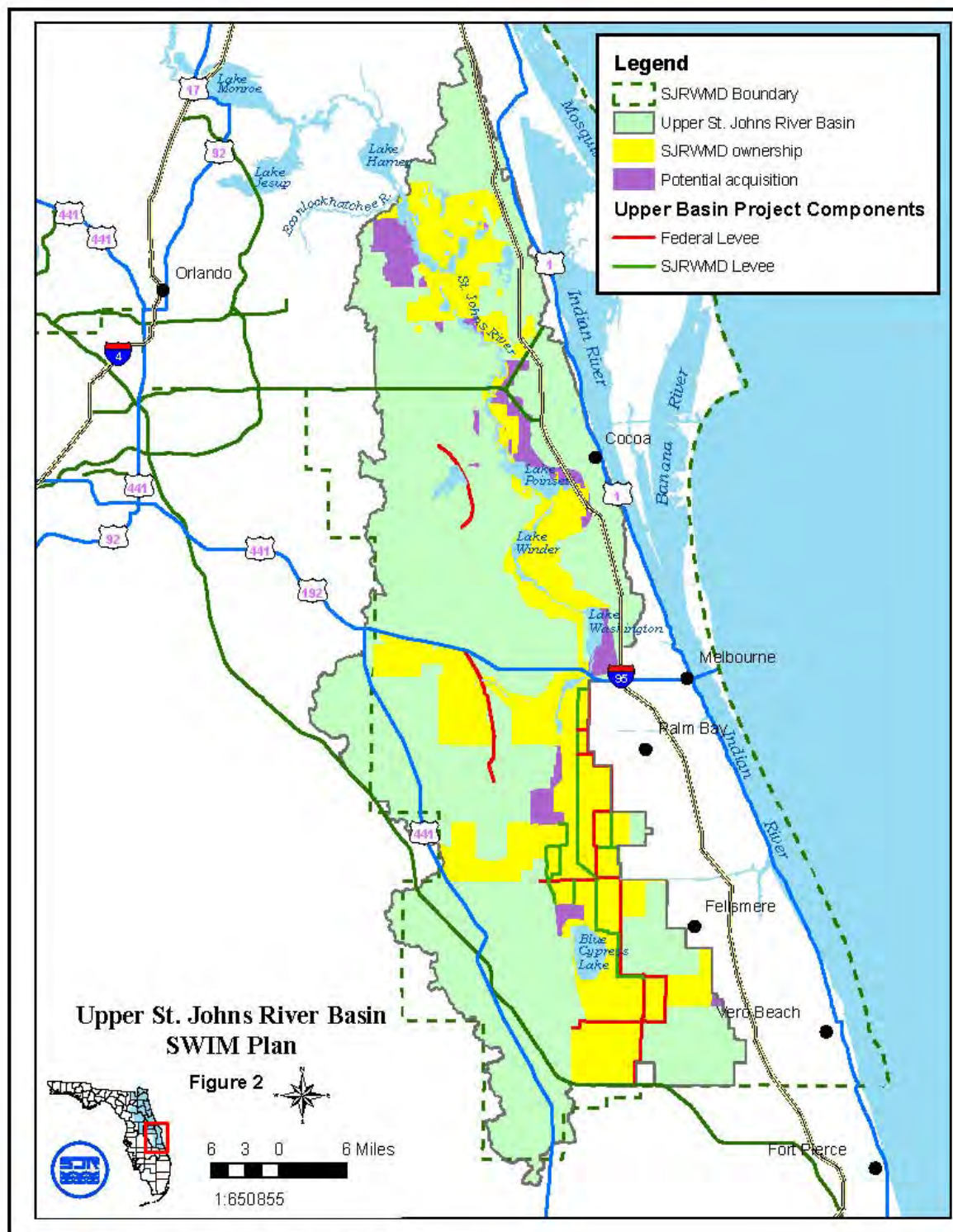
Passage of the federal National Environmental Policy Act of 1969 required that an Environmental Impact Statement (EIS) be prepared for federally funded water projects. In 1970, USACE began preparation of the required EIS for the USJRB Project. Early findings indicated potentially serious adverse environmental impacts, and in 1972 construction within the USJRB was halted pending completion of a more comprehensive EIS. The state of Florida determined that the original project design was unacceptable because of the potential for significant environmental degradation to the upper St. Johns River ecosystem, and in 1974 the state withdrew its formal sponsorship of the project.

In 1977, local sponsorship for the project was transferred from the CSFFCD to SJRWMD. SJRWMD has designed an innovative plan with USACE to revitalize the river's flow by restoring drained marshlands, plugging canals and building reservoirs.

A.2.3. Current Uses

The current USJRB Project is a large, multipurpose, public water project. The project design represents a “semistructural” approach to water management, which attempts to balance flood control and environmental goals. The project is semistructural because it relies less on artificial controls and more on the function of the natural floodplain to store floodwaters. Figure 2 shows the major canals and levees within the project area. While maintaining its primary flood control objectives, the USJRB Project also provides for habitat restoration and benefits for protecting water quality and agricultural water supply.

The project has the capacity to use more than 160,000 acres of existing or former floodplain marsh for stormwater storage. When not storing floodwaters, the project is managed to



restore and preserve historical wetland functions of the basin including flow augmentation to the St. Johns River during low flow periods. It contains a mix of headwater and floodplain marsh interspersed with shallow lakes and bordered by gently sloping upland areas. The Upper Basin is distinct in the range of habitats it supports and the connectivity of these

habitats over a large spatial and hydrologic gradient. It is currently one of the largest wetland restoration projects in the country.

The sheer scope of the Upper Basin project requires ongoing teamwork among USACE, SJRWMD and other state environmental agencies and interest groups. To meet the project's land requirements, the District has acquired real estate at fair market value. USACE performs the engineering design and manages construction of the project. Operation and maintenance of the Upper Basin lies with SJRWMD.

A.1.4. Conditions leading to the need for restoration and protection

By the early 1970s, 62 percent of the marsh had been drained for agricultural and flood control purposes. Canals were constructed to divert floodwaters from the basin to the Indian River Lagoon. Water elevations within the Basin were controlled through a network of privately-owned levees and structures. Most of the basin was bordered by levees that protected large tracts of land under use by agricultural interests. Water within these levees was in turn controlled by pump and/or gravity drainage structures.

Impacts included a loss of water storage areas, diminished water quality, excessive freshwater going into the Indian River Lagoon, and significant decreases in fish and wildlife populations. Channelization and drainage of the area caused declines in wading bird and waterfowl usage. Fish kills in the basin lakes increased in frequency and sport fish populations declined. Plant community shifts due to altered hydroperiods and increased nutrients were also observed, and the surface area of some lakes declined due to increased sedimentation (Miller et al. 1998).

A.2. Hydrology

Historically, rainfall entered the headwater marshes and moved downstream as sheetflow. Much of the marshland south of U.S. Highway 192 was drained for agriculture, and a large portion of floodwaters were diverted to the Indian River Lagoon. Drainage of the marshes altered their hydrology (FDEP 2003). The timing, magnitude, and duration of high and low flood events were altered, so that the marshes held less water for less time with greatly reduced dry season flows (Miller et al. 1998).

A well-defined river channel does not appear until 30 miles downstream above Lake Hell n' Blazes (Miller et al., 1998). Lakes Hell n' Blazes, Sawgrass, and Washington also have peat bottoms. From Lake Winder north to Lake Poinsett, the river becomes more channelized, with a firm, sandy bottom. North of Lake Poinsett, the river flows through a wide valley dotted by palmetto islands and marshes. The river meanders through a highly braided channel, exhibiting a wide range of fluctuations in water levels. Farther downstream in the area of Puzzle Lake, relict saline ground water contributes to stream flow. Salinity in the river can be as high as 10 to 11 parts per thousand (DeMort, 1991).

Major tributary streams are Taylor Creek, Jane Green Creek, Cox Creek, Wolf Creek, Blue Cypress Creek, and Fort Drum Creek. Drainage modifications were made in many of the

tributaries as part of earlier U.S. Army Corps of Engineers (USACOE) flood control plans. The L-73 Levee and several gated spillway structures were constructed, as part of the original 1962 project, along the western upland boundary of the St. Johns River. The purpose of the L-73 Levee was to create several connected upland reservoirs from tributary watersheds. When construction was halted in 1972 the levee had only been completed across Jane Green Creek and Taylor Creek to create the Jane Green Creek Detention Area and Taylor Creek Reservoir, but only the Taylor Creek Reservoir was operational (Sterling and Padera, 1998).

The USJRB Project now includes about 100 miles of levees, 8 large-capacity gated spillway structures, and 18 smaller water control structures. The project area is designed to accommodate the drainage of surface waters from over half of the 2,000-mi² watershed of the upper St. Johns River. The major hydrologic features include four large Marsh Conservation Areas (MCAs) and 16,000 acres of Water Management Areas (WMAs).

The four large MCAs, composed of existing and restored marshes, are designed to provide temporary storage of floodwaters generated from adjacent upland areas. Storing water in these areas reduces the need to discharge potentially damage quantities of freshwater to the Indian River Lagoon.

The WMAs are located on former agricultural lands within the existing river valley. Because of significant soil subsidence on these lands the WMAs are deep water reservoirs operated to provide long-term irrigation water supply and temporary flood storage of agricultural pump and gravity discharges. The WMAs are intended to improve water quality conditions by separating agricultural water from better quality water in the St Johns River marsh.

A.2.1. Water Quality

Under Section 303(d) of the Clean Water Act, each state must prepare a list of waters that are not of sufficient quality to meet their designated uses and establish Total Maximum Daily Loads (TMDLs) for those waters on a prioritized schedule. These lists are required to be submitted to EPA for review and approval every April of even-numbered years, that is, every 2 years. It is those water bodies in the USJRB that appear on the 303(d) list that will automatically receive the highest priority for establishment of TMDLs (total maximum daily loads) for restoration and protection. TMDLs establish the maximum amount of pollutants a water body can assimilate without exceeding water quality standards. The Florida Watershed Restoration Act, Chapter 99-223, Laws of Florida, addresses processes for refining the list and for calculating and allocating TMDLs. According to EPA guidelines, waters expected to attain and maintain applicable water quality standards through other Federal, State, or Local requirements do not need to be included on the 303(d) list. (www.dep.state.fl.us/water, Eric Livingston, FDEP, personal communication). Further details on the TMDL process in the USJRB are provided in Section D.

In 1998, EPA approved Florida's 1998 303(d) Impaired Waters List, which was based on existing, readily available data or best professional judgment. However in 1999, the Florida Watershed Restoration Act, Section 403.067, F.S. was enacted by the Florida Legislature.

This law requires FDEP to adopt by rule, a scientific methodology for analyzing environmental data and determining whether a water body is impaired or healthy. All water bodies on the 1998 303(d) List are required to be either 1) verified as impaired, 2) de-listed as they are meeting water quality standards, or 3) placed on a planning list if insufficient data exists.

In September 2003, FDEP published a USJRB status report that provided a *Planning List*, or preliminary identification, of potentially impaired waterbodies within Basin. This year (2006) FDEP has completed the USJRB Assessment Report that presents the results of additional data gathered during Phase 2 of the cycle. The report contains a *Verified List* of impaired waters that was adopted by Secretarial Order on June 17, 2005, and was submitted to the U.S. Environmental Protection Agency (EPA) in the summer of 2005. TMDLs must be developed and implemented for these waters, unless the impairment is documented to be a naturally occurring condition that cannot be abated by a TMDL or unless a management plan already in place is expected to correct the problem. The *Verified List* also constitutes the Group 3 basin-specific 303(d) list of impaired waters, so called because it is required under Section 303(d) of the Clean Water Act.

FDEP's assessment shows that nine waterbodies or waterbody segments in the Upper St. Johns River Basin are impaired and require the development of TMDLs. Table 1 lists by waterbody ID(WBID), the listed impaired waterbody, the primary pollutants of concern and the proposed TMDL development year. TMDLs for three of the waterbody segments; 2893L, 2893Q, and 2893X, have already been developed by FDEP. Other potential impaired waterbodies in the planning unit include Tosohatchee and Jim Creek. Both are potentially impaired because of low DO levels. Jim Creek is additionally potentially impaired because of failed biological assessments.

Table 1. FDEP 303(d) Verified Listed Waterbodies for the Upper St. Johns River Basin

WBID	Water Body Name	Priority	Parameter(s)	TMDL Development" Year
3073	Crabgrass Creek	Medium	Copper, Coliforms, Nutrients (chlorophylla	2008, 2009(Copper)
2893K	Lake Poinsett	Medium	DO, Nutrients (TSI)	2008
2893L	St. Johns River above Lake Poinsett	High	DO, Nutrients (Historical Chlorophylla	2004
2893I	St. Johns River above Puzzle Lake	Medium	DO, Nutrients (Historical Chlorophylla	2008
2983Q	Lake Hell'n Blazes	High	DO, Nutrients (TSI)	2004
2893X	St. Johns River above Sawgrass Lake	High	DO, BOD	2004
3108C	Three Forks	Medium	DO	2009
28931	Sawgrass Lake	Medium, Low	DO, Mercury (Fish)	2009, 2011(Mercury)
28935	St. Johns River above Puzzle Lake	Medium	DO	2009

SJRWMD maintains a sampling program in the USJRB. Figure 3 shows the monitoring locations.

A.3. Land Acquisition

The acquisition of environmentally sensitive land to preserve and protect water resources is an important ongoing initiative of SJRWMD. The Division of Land Acquisition uses Florida Forever funds, the primary state funding source for land acquisition, for water resource development and restoration projects and for acquisition of land for non-structural flood protection and conservation. SJRWMD also uses ad valorem and mitigation funds for acquisition.

SJRWMD has some form of interest in approximately 640,000 acres of land (through ownership, management, or conservation easement rights). More than 260,000 acres of the SJRWMD lands occur within the USJRB (Hall et al. 2005), and further acquisitions are planned.

A.4. Water Supply

The Upper St. Johns River from SR 60 to Lake Washington has a surface water quality designation of Class I (potable water supply) in recognition of the importance of Lake Washington as a drinking water source for Melbourne. Downstream of Lake Washington the remainder of the Upper Basin has a designation of Class III. The water supply potential of areas further upstream, such as the Fellsmere Water Management Area, is being considered. Use of these areas for water supply may also require that they meet Class I standards.

The Taylor Creek Reservoir is located in Orange and Osceola counties near the St. Johns River and State Road 520. The reservoir was designed to provide flood control and water supply in the upper St. Johns River drainage basin. The reservoir receives drainage inflow from about 60 square miles of watershed. Water from the reservoir then flows into Taylor Creek, which empties into the St. Johns River about 4.3 miles downstream.

The city of Cocoa began using the reservoir for water supply in 1999, withdrawing approximately 10 million gallons per day (mgd) from the reservoir to supplement its groundwater sources.

SJRWMD is investigating ways to optimize the Upper St. Johns River Basin Project in such a way that will maintain flood control and environmental restoration goals and will maximize the amount of water available from the St. Johns River for the Taylor Creek project.

Although water supply is generally outside of the scope of the USJRB SWIM Plan, there are concerns about the cumulative impacts of groundwater and surface water withdrawals on wetland area, as well as the maintenance of water quality for water supply in Lake Washington. In the event of water supply issues in the USJRB, the USJRB program manager will coordinate with SJRWMD's Department of Resource Management, which is responsible for consumptive use permitting and water use regulation.

A.5. Completed or Pending Upper St. Johns River Basin Studies

A variety of studies and plans have been done that address water quality, hydrology, and ecosystems in the USJRB. A list of recent publications on the St. Johns River that are relevant to the USJRB, are included as an addendum to the Bibliography.

A.6. Current Restoration or Protection Projects

SJRWMD has restoration and protection projects currently underway that will benefit the USJRB. These projects include:

- **Adaptive Management**—This project will evaluate the hydrological and biological impacts of project operation and maintenance in order to assess the best management approaches to achieve the program goals.
- **Banjo Groves Restoration**—This project will restore the complex mosaic pattern of prior converted wetlands (323 acres) by removing citrus trees, filling internal ditches and degrading the perimeter levee in order to achieve hydrologic reconnection.
- **Fellsmere Water Management Area** – This project, located on the eastern side of the basin adjacent to the existing St. Johns Water Management Area, will construct a water management area on a site currently used for pasture, citrus, sod and row crop. This water management area will serve to improve water quality, reduce freshwater discharges to the Indian River Lagoon, provide flow augmentation during low flow periods to downstream reaches of the St. Johns River, water supply and restore wetland habitat.

SECTION B.

LAND USES AND REGULATED ACTIVITIES WITHIN THE USJRB

B.1. Land Use and Land Cover

The USJRB Project area is almost wholly contained within Indian River and Brevard counties. The evaluation of the land use and land cover for the USJRB is thus confined to Indian River and Brevard counties.

Based on 1996 land use data from Indian River County (Table 2) and 2005 data from Brevard County (Table 3), the predominant land uses in the USJRB outside of the project area are agriculture, comprising 56% and 32% of the land area, respectively. Urban and suburban development, which includes residential, commercial and industrial land uses, comprises 22% and 13% of the land areas in the two counties, respectively. Indian River County has 22% of the land in conservation and Brevard County has 39% of the land in conservation.

Table 2. Major Categories of Land Use and Land Cover in Indian River County for 1996 (Indian River County Comprehensive Plan)

	(1996)	
Land Use/Land Cover Category	Acreage	%
Urban and Suburban	71,320	21
Agriculture	182,454	55
Recreational and open land	3,084	1
Public Conservation	67,229	20
Public Facilities	4,946	.2
Vacant or Other	3,050	.1
Total Unincorporated	332,083	100%

Table 3. Major Categories of Land Use and Land Cover in Brevard County for 2005 (Brevard County Comprehensive Plan)

	(2005)	
Land Use/Land Cover Category	Acreage	%
Urban and Suburban	50,180	12
Agriculture	134,163	32
Recreational and open land	7,434	.2
Public Conservation	164,241	38
Public Facilities	5,068	.1
Vacant or Other	66,126	15
Total Unincorporated	427,212	100%

Source: Brevard County Property Appraiser Data, Brevard County Planning and Zoning Office, data reported in the 2006 Brevard County Evaluation and Appraisal Report

B.2. Point Sources of Pollution

In October 2000, the U.S. Environmental Protection Agency (EPA) authorized FDEP to implement the National Pollutant Discharge Elimination System (NPDES) stormwater permitting program in the State of Florida (with the exception of Indian country lands). The NPDES stormwater program regulates point source discharges of stormwater from certain municipal and industrial sources, including certain construction activities.

Municipal Separate Storm Sewer Systems (MS4)

Designated large and medium municipal separate storm sewer systems, or MS4s, are a publicly-owned conveyance or system of conveyances (i.e., ditches, curbs, catch basins, underground pipes) that are designed for the discharge of stormwater to surface waters of the state. An MS4 can drain, and be operated by, municipalities, counties, drainage districts, colleges, military bases, or prisons, to name a few examples. These facilities were previously required by EPA to obtain NPDES permits prior to delegation to the state. In the state of Florida, Phase II permitting was completed in 2003, and the permitted program should be implemented by 2008. DEP's authority to administer the NPDES program is set forth in Section 403.0885, Florida Statutes (*F.S.*).

Brevard and Indian River counties are listed on the the FDEP web site at http://www.dep.state.fl.us/water/stormwater/npdes/docs/Phase_II_MS4_list.pdf as having NPDES permits for their MS4s as of January 2004. The permit number for Brevard County is FLR04E052. The permit number for Indian River County is FLR04E68. These permits conditionally authorize Brevard and Indian River counties to discharge stormwater to “the Waters of the United States.” Additionally, the County is required to inspect and monitor industrial and construction activities for permit compliance.

Under the NPDES General Permit for Storm Water Discharges Associated with Industrial and Construction Activities, EPA requires the development and implementation of a Storm Water Pollution Prevention Plan (SWP3) designed to reduce pollution at the source.

Domestic and Industrial Wastewater Facilities

Within Brevard County, there are currently 26 wastewater facilities permitted by the Florida Department of Environmental Protection including domestic wastewater treatment facilities and industrial wastewater facilities (<http://www.dep.state.fl.us/water/wastewater>). The wastewater facilities included 11 domestic wastewater facilities, 4 industrial wastewater facilities and 11 concrete batch plants. Within Indian River County there are 11 wastewater generating facilities, including 2 domestic wastewater facilities, 4 industrial wastewater facilities, and 5 concrete batch plants.

The domestic wastewater treatment plants generate secondarily treated wastewater that may be permitted to be disposed of in many ways including: surface water discharge; deep well injection; land application; re-use (treated to a higher standard); intermittent surface water discharge; or a combination of these. Intermittent surface water discharge generally means

the wastewater is contained within an isolated pond and only reaches surface waters of the state through ground water seepage and transmission, or during a significant storm event. Other types of discharge that occur to a lesser extent are: surface water discharge, land application, deep well injection, and re-use.

B.3. Non-point Sources of Pollution

Non-point sources of pollution in the Basin, which can degrade ground and surface water quality, include stormwater runoff or leaching of pollutants into groundwater from urban/suburban and agricultural land uses, atmospheric deposition, and septic tanks. Septic tanks, or Onsite Sewage Treatment and Disposal Systems (OSTDS) are prevalent in some areas of the Basin and are considered a potential source of nutrients (nitrogen and phosphorus), pathogens and other pollutants that can pose a threat to public health. Surface waters can be adversely affected directly by system drainfields washed away by floodwaters or via runoff from areas where system failures result in ponding of untreated or inadequately treated wastewater on the ground. Surface waters can be adversely affected indirectly through seepage of groundwaters contaminated by system discharges. From the period 2000-2005 the Florida Department of Health reported 4644 OSTDS repair permits for Brevard, and Indian River counties (Table 4) and 9,093 new installation permits (Table 5).

Table 4. Septic Tank Repairs for the period 2000-2005

COUNTY	2000-01	2001-02	2002-03	2003-04	2004-05	All Years
Brevard	427	407	131	275	234	1474
Indian River	711	606	707	667	479	3170
TOTAL	1138	1013	838	942	713	4644

Source: (<http://www.doh.state.fl.us/environment/ostds/statistics/repairs.htm>)

Table 5. New Septic Tank Installations for the period 2000-2005

COUNTY	2000-01	2001-02	2002-03	2003-04	2004-05	All Years
Brevard	1455	1774	142	1515	1715	5241
Indian River	609	634	725	944	940	3852
TOTAL	2064	2408	867	2459	2655	9093

Source: (<http://www.doh.state.fl.us/environment/ostds/statistics/NewInstallations.htm>).

SECTION C.

GOALS, INITIATIVES, AND STRATEGIES FOR RESTORATION OR PROTECTION

The Water Resource Implementation Rule (Ch 62-40, F.A.C.) calls for SJRWMD to implement protection measures as appropriate to enhance or preserve surface water resources.

Specifically, 62-40.425 *F.A.C.* Watershed Management states:

- (1) A comprehensive watershed approach provides an important tool for managing the cumulative impacts of human activities. Where possible, the Department and Districts shall promote a watershed management approach for addressing water quality, water supply, natural systems, and floodplain management and flood protection issues, and shall encourage the development of comprehensive watershed management plans.
- (2) It shall be a goal of watershed management programs to protect, preserve and restore the quality, quantity, and environmental values of surface and ground water resources; to prevent existing environmental, water quantity, and water quality problems from becoming worse; to reduce existing flooding problems; improve existing water quality; promote and protect the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems, and preserve or restore natural systems.
- (3) As part of SWIM plans or other watershed management plans, programs, or rules, the Department, water management districts, Department of Agriculture and Consumer Services, and local governments are encouraged to implement protection measures as appropriate to enhance or preserve surface water resources. Protection measures shall be based on scientific evaluations of targeted surface waters and the need for enhancement or preservation of these surface water resources. Protection measures shall include a combination of nonstructural pollution prevention best management practices and structural best management practices.

Specific Authority 373.026(7), 373.036(1)(d), 373.043, 373.171 FS. Law Implemented 373.023, 373.026, 373.036(1)(d), 373.171, 373.1961, 373.223, 373.418, 373.451, 373.453, 403.064, 403.067, 403.0891 FS. History—New 5-7-05.

Surface water management goals of SJRWMD that apply to the Upper St. Johns River Basin SWIM plan include the following:

- To preserve natural and functional components of the ecosystem while restoring, where feasible, those conditions and components of the degraded portions of the system;
- To preserve or restore, the quantity and quality of water necessary to support thriving biological communities, containing appropriate diversities of species native to the Upper St. Johns River Basin;

The mission of the USJRB Plan is thus to preserve and protect the ecosystem and the contributing drainage area consistent with the goals of the St. Johns River Water

Management District. This mission will be accomplished through the use of a prioritized, objective, sustainable, ecosystem or watershed approach with periodic public review and input. Through prioritization, projects will be chosen which address resources most in need of protection and/or restoration. Sustainable restoration and enhancement techniques alone or in combination will minimize the public's financial and material liability toward the management and operation of these systems. An ecosystem-watershed approach will not be limited to investigations in the river and adjacent wetlands. Rather it will take into consideration the cause and effects of the problem within its land-based context across the drainage basin and establish successful applications for enhancement or restoration.

The USJRB SWIM plan is organized around a system of goals, initiatives, strategies and action steps. In this system, the *Goals* are broad-based and identify the objectives of SJRWMD, as stated above. *Initiatives* are general categories of problem areas developed by SJRWMD staff. *Strategies* are detailed descriptions of the underlying work proposed to achieve results. They identify the approaches and methods that will be used to implement the initiatives. *Action Steps* represent specific activities under each strategy suggested to reach project delivery. The *Action Steps* briefly describe the research and feasibility studies and associated tasks to reach the targeted *Strategy* as required the Florida Administrative Code. Each *Action Step* includes a schedule for completion and an estimate of the funding requirements needed to accomplish the *Action Step*. These *Action Steps*, as well as the *Strategies* and *Initiatives* referenced above, are not mutually exclusive, and may be undertaken concurrently, and/or sequentially.

The consensus of the USJRB SWIM Plan Team is that the plan should focus on two primary initiatives:

Initiative 1 – Water quality

This initiative consists of two closely related strategies – monitoring water quality and plankton communities, and projects to improve water quality to meet designated uses and project goals.

Initiative 2 – Resource Assessment, Protection and Restoration

This initiative consists of strategies to gather and assess data on habitat and species needed to develop a comprehensive plan for monitoring biological conditions in the basin to ensure achieving the overall biological goal of the Upper Basin Program which is the preservation of native biodiversity and restoration of native levels of productivity of economically important species.

In its mandate to address broad ecosystem needs, the USJRB SWIM Plan attempts to accomplish comprehensive protection strategies within the USJRB and introduce sustainable restoration strategies for resources or resource areas that are proven to be degraded. The intent is to also provide cooperative funding for projects addressing long-term waterbody protection and restoration.

C.1. Water Quality Initiative

C.1.1. Strategy: Monitor water quality and plankton communities and assess trends.

USJRB and its tributaries have been extensively monitored for water quality for the last 35 years and the network of sampling stations is assessed annually to ensure the data are useful for achieving established goals. The existing water quality monitoring program consists of three types of stations. Data from ambient monitoring stations is used to generally characterize water quality in the USJRB, and identify water quality problems and trends; loading stations provide information on water quality coming into the river from tributaries. Operational sampling is done in areas such as restoration sites where the data are used to make operational and management decisions about the sites.

Sampling and analysis of planktonic communities are an important adjunct to water quality monitoring in the USJRB. Plankton are the base of the aquatic food chain and the composition of plankton communities can be affected by water quality. Changes in plankton communities due to poor water quality can have effects throughout the aquatic ecosystem.

The purpose of this strategy is to provide timely and accurate data on water quality and plankton communities throughout the basin. These data will be used to assess trends, identify problems, and determine if project goals are being met.

C.1.1.1. Action Steps:

1. **Monitoring.** A network of water and plankton sampling stations has been established throughout the basin. This network, together with the analytes tested for, and the sampling frequency will be reviewed to ensure the continuing provision of information useful for assessing water quality relative to project goals.
2. **Improve the existing water quality models and investigate additional water quality models.** Water quality models are needed to test different proposals to improve water quality, predict the effect of project operation and evaluate the impact of land use changes in the basin. Because of the complexity of water quality, and the variety of uses for these models, several different models will be developed. Some will focus on particular water quality issues, such as dissolved oxygen levels, and others will be more general. The USJRB Framework Water Quality Model was completed in 2005.
3. **Complete a basin-wide analysis of water quality trends.** Problem areas will be identified focused on attainment of established TMDLs and PLRGs.

C.1.2. Strategy: Improvement and Maintenance of Surface Waters

Many areas in the USJRB require water quality protection and/or improvement. Some areas have been designated as impaired by the FDEP and TMDLs have been established, and a concentration goal (PLRG) for phosphorous which will meet the TMDL has been accepted. Other problem areas will be identified as described in C.1.1.1.3. Improvement projects will

be proposed to avoid the application of the TMDL process to these areas. Pollution sources will be reviewed and prioritized from a basin-wide perspective to identify areas for restoration to improve water quality.

Maintenance of the many drainage canals and tributaries in the USJRB is generally focused more on flood protection than on water quality. Awareness of BMPs and carefully regulated maintenance schedules and procedures are simple means for municipalities to reduce sediment transport, and minimize water quality impacts to receiving water bodies.

C.1.2.1. Action Steps:

1. Work with FDEP in the development of a Basin Management Action Plan (BMAP) to meet established TMDLs. FDEP will take the lead in organizing stakeholders in the basin and developing a BMAP. SJRWMD is an important stakeholder in this basin because of the large amount of District-owned land. Additionally SJRWMD will serve as an important source of technical data for the development of this plan. The BMAP process will help identify if drainage canals are creating water quality problems, and where appropriate, encourage municipalities to use recognized BMPs to reduce sediment transport.
2. Collect and assess information on dissolved oxygen (DO) in the basin to determine if impairments exist or if a Site Specific Alternative Criterion is appropriate. Low DO levels have been identified as an impairment by FDEP. However, DO may be naturally low in this area during some seasons. A program to collect long-term DO measurements together with related hydrologic, chemical and biologic data is on-going in SJRWMD. These data will help determine whether the low DO is a natural condition and, if so, what levels are needed to support indigenous aquatic species.
3. Construct and operate Fellsmere Water Management Area so as to meet the established concentration goal for phosphorous in the downstream lakes. In addition to providing agricultural water supply, and restoring habitat, this project will provide water quality treatment to agricultural discharges. Without this project, modeling suggests that the concentration goal for phosphorus will not be met consistently in the downstream lakes.
4. Collect and assess data on sediment nutrient levels. Sediments are the major source of nutrients to marsh plants, and one of the principal drivers of vegetation change. A basin-wide “snapshot” of sediment nutrient levels can be used to help prioritize water quality problem areas and in the development of solutions. Additionally these data can be used to predict the path of recovery as nutrients in the water column are decreased.
5. Construct a berm along the C-52 in Blue Cypress Water Management Area West in order to improve water quality and protect habitat. The degradation of water quality in the C-52 Canal and the consequent spread of *Typha* (cat-tails) into the adjacent

Ansin Tract were recently documented. The construction of a berm along the east side of the C-52 will help keep the nutrient rich water confined to the canal.

6. Prioritize problem areas identified in C.1.2 and develop projects to improve water quality.
7. Operate and manage Sawgrass Lake Water Management Area (SLWMA) to reduce phosphorus and meet TDMLs in downstream lakes. Sawgrass Water Management Area is a treatment wetland constructed to treat discharge from the C-1 Canal which is being re-diverted to the Upper Basin by the C-1 Rediversion Project. In order to ensure that water quality in the USJRB is not degraded by this re-diversion, hydrology and vegetation in SLWMA will be managed to maximize phosphorus removal, and water quality will be monitored.

C.2. Habitat Assessment, Protection and Restoration Initiative

C.2.1 Strategy: Hydrologic monitoring.

The purpose of this strategy is to provide timely and accurate information on hydrologic conditions throughout the basin. These data are used in an adaptive management framework to make management decisions. These data are also used to assess whether hydrologic conditions meet the established Environmental Hydrologic Criteria (Miller, et al. 2003) which address long-term hydrologic conditions necessary to meet project goals.

C.2.1.1. Action Steps:

1. Review hydrologic data collection network to identify any data gaps. Although an extensive network of hydrologic monitoring stations already exists in the basin, it is generally focused on water control structures. Additional stations may be needed, particularly in areas where projects are proposed to change hydrologic conditions in order to meet environmental hydrologic criteria.
2. Assess project hydrology to determine how well the environmental hydrologic criteria are being met. The criteria are long term averages; however analyses of shorter term data sets are valuable in assessing whether there are any major problems. Several project areas, as discussed below, are known not to meet established criteria. This assessment will review the remaining project areas and result in identification and prioritization of problem areas.
3. Construct the Fort Drum hydrologic improvements and monitor hydrology to determine if environmental hydrologic criteria are being met. This project area has not drained as designed and for over ten years has been subjected to high stable water levels. In order to restore and preserve the complex mosaic of habitats on this site, it is necessary to solve these drainage problems. A first step is the creation and maintenance of two ditches. Once these ditches have been constructed, on-going monitoring will be done to assess whether hydrologic goals have been achieved.

4. Initiate project to decrease hydroperiods in Jane Green Swamp (Bull Creek Wildlife Management Area). Monitor hydrology to determine if area is meeting environmental hydrologic criteria. Water levels in Jane Green Swamp have been excessively high due to the high sill elevation of the S-161 structure. The US Army Corps of Engineers, who constructed the structure, has designed a modification to the structure to lower the control elevation. Until this modification can be constructed, SJRWMD will install a pump and operate it to decrease the hydroperiods at lower elevations. Additionally, SJRWMD will engage in biological monitoring to investigate whether there is regeneration of hardwood swamp tree species under the new hydrological conditions.
5. Construct hydrologic improvements in the St. Johns Marsh Conservation Area (SJMCA). Hydrologic modeling has shown that SJMCA is likely to suffer from overdrainage once the USACE project is completed. In order to avoid this problem, plugs will be constructed in the major canals which traverse this marsh area. Hydrodynamic modeling will be conducted to determine the appropriate design and location for these plugs.

C.2.2. Strategy: Revise the existing Hydrological Simulation Program Fortran (HSPF) hydrologic models, which can predict water levels for current and future basin conditions based on the historical rainfall data.

Hydrologic modeling is a key to assessing project operation, developing operation schedules to meet environmental goals, and designing projects to improve water quality.

C.2.2.1. Action Steps:

1. Revise the upper basin HSPF hydrologic model. The framework model is completed but some work remains in incorporating flows from different project areas, and from outside District-owned land.
2. Using modeled predictions, assess how well each project area will meet Environmental Hydrologic Criteria under the existing flood control regulation schedule. Where criteria are not met, Zone B or low flow structure operation schedules will be developed.

C.2.3. Strategy: Assess biological resources of the basin and initiate monitoring to track changes.

The purpose of this strategy is to develop and initiate a system to monitor a few key indicators of the biological health of the Upper Basin. These indicators are termed biological metrics and are groups of species, such as wading birds, which indicate by their number and composition a biologically diverse and healthy ecosystem. Changes in a metric, such as a decline in number or diversity of wading birds, suggest some problem in the ecosystem. These metrics will be the focus of the monitoring efforts. Data from the monitoring will be

used to determine if the biological goal of the project to protect biological diversity is being met.

C.2.3.1. Action Steps:

1. Complete development of a biological database which will provide access and organization to the diverse biological data which has been and will be collected in the Upper Basin. Once the database is developed and tested, existing biological data will be prepared and loaded.
2. Collect and analyze data on wading bird use of the Upper St. Johns River Basin. Wading birds are an important indicator of the health of the wetland ecosystem. Regular censuses of bird number, foraging patterns and nesting are used to monitor project success.
3. Complete vegetation mapping and spatial analyses of habitats in District-owned lands in the Upper Basin. Because of the large spatial scale, vegetation and habitat changes are best tracked through mapping from aerial photographs. This mapping will occur on a regular basis. Spatial analysis techniques will be used to identify and evaluate the changes which have occurred.
4. Initiate data collection and analyses of remaining biological metrics. Additional metrics, in addition to wading birds and plant communities, are needed to assess project success and identify potential problems. These metrics have been identified (Hall, 2004), now, data collection and analysis must be initiated.
5. Develop scientific information necessary to provide recommendations on leasing SJRWMD lands for grazing. Leasing appropriate SJRWMD land for grazing is an established land management strategy in the Upper Basin. However the determination of which lands are appropriate for grazing, and what sorts of environmental changes might be expected from the practice are not well-known. This action step will develop the information needed to make wise resource management decisions concerning this practice.
6. Review fire records for the basin and assess the role of the prescribed fire program in achieving biological goals. There has been an active prescribed fire program on District land in the Upper Basin for more than 10 years. Although some small scale analyses have been done, there has been no basin-wide assessment of the effect of fire and fire management.

C.2.4. Strategy: Acquire and restore lands necessary for flood protection, water resource protection, and water supply.

A considerable amount of land in the Upper Basin has been acquired by SJRWMD, both to meet the needs of the USJRB project, and to achieve environmental goals. Further land acquisition is likely to be confined to opportunities that may arise.

C.2.4.1. Action Steps:

1. Complete the restoration of Banjo Groves.
2. In the area north of USACE project, acquire all available lands within the 10-year floodplain. Such acquisition will provide flood protection as well as restoration opportunities.
3. Continue to acquire lands throughout the basin, as opportunities arise, in order to meet project goals. Once opportunities for acquisition have been recognized, staff will assess restoration strategies that would be appropriate for the site.

SECTION D.

MEASURES NEEDED TO MANAGE AND MAINTAIN THE UPPER ST. JOHNS RIVER BASIN

This section is provided to describe and discuss the process by which SJRWMD will support FDEP in the establishment of TMDLs in the USJRB as required by Chapter 62-40.432 F.A.C.

D.1. Background

Federal and State Requirements: Section 303(d) of the Clean Water Act (CWA) requires states to develop a list of waters not meeting water quality standards or not supporting their designated uses. Chapter 99-223, Laws of Florida, sets forth the process by which the list is refined through more detailed water quality assessments. TMDLs are required for the waters determined to be impaired based on these detailed water quality assessments because technology-based effluent limitations, current effluent limitations required by state or local authority, or other pollution control requirements are not stringent enough to meet current water quality standards. Florida's 303(d) list has been approved by the United States Environmental Protection agency (EPA). EPA guidelines specify waters need not be included, or listed as verified impaired, if other federal, state or local requirements have or are expected to result in the attainment and maintenance of applicable water quality standards.

USJRB "Listed" Water Bodies: Table 1 is provided to show the verified impaired waters in the USJRB Waters on the verified list occur on the state's 303(d) list and will be reported to EPA.

D.2. The Watershed Management Program:

The Watershed Management Program (WMP), within the context of Chapter 99-223, Laws of Florida, is based on a five-phase cycle that rotates through the state's basins every five years. The WMP is the vehicle by which the FDEP is organizing the task of administering the TMDL process statewide. Objectives of each phase of the WMP cycle are listed below:

- Phase 1 – Initial Basin Assessment
- Phase 2 – Coordinated Monitoring
- Phase 3 – Data Analysis and TMDL Development
- Phase 4 – Basin Management Plan Development
- Phase 5 – Begin Implementation of Basin Management Plan

The Department: FDEP is the lead agency responsible for the establishment of TMDLs and has organized the process into twelve steps: Some steps have been completed. Throughout the process the FDEP recognizes the need to coordinate with local governments, water management districts, the Department of Agriculture and

Consumer Services (DACS) and other interested parties. The twelve-step process is outlined below:

1. Develop a planning list of surface waters or segments for which TMDL assessments will be calculated.
2. Develop a priority ranking and schedule for analyzing the list.
3. Conduct a TMDL assessment coordinating with water management districts and other agencies.
4. Adopt by rule a methodology for determining impaired water bodies based upon objective, quantitative and credible data, studies, and reports, including water management districts under SS. 373.456.
5. Adopt a list of those water bodies or segments for which TMDLs will be calculated (by order of the Department subject to challenge under SS. 120.569 and 120.57 and submitted to EPA).
6. The Department shall develop TMDL calculations after first coordinating with applicable local governments and water management districts. Some TMDLs may be based on PLRGs.
7. Develop allocations based on TMDL calculations (maximum amount of water pollutant from a given source or category that may be discharged in combination with other discharges).
8. TMDL calculation and allocation shall be adopted by rule, and submitted to the U.S. Environmental Protection Agency as the state's 303(d) list for the basin (403.067 (6) (d) F.S.).
9. The Department shall be the lead agency in coordinating the implementation of the TMDLs.
10. The Department may in cooperation with water management districts and other interested parties develop BMPs to reduce pollutant loads from non-point sources into the affected water body and adopt by rule. The Department of Agriculture and Consumer Services (DACS) will develop BMPs for agricultural non-point sources. (This effort will include routine tracking of the effectiveness of the BMPs, record keeping requirements, and water quality monitoring.)
11. The Department will evaluate the effectiveness of the TMDL for five years from its initiation.
12. The Department will report to the Governor and Legislature by 1/1/05, and make recommendations for statutory changes to implement the TMDLs more effectively, if needed.

D.3. The Role of SJRWMD in the TMDL Verification Process:

Based on the EPA guidelines, certain waters may not be included, or listed as verified impaired, if regional or local remedial or restorative programs have or are expected to result in the attainment and maintenance of applicable water quality standards. In accordance with the Florida Watershed Restoration Act, FDEP will not place waters on the verified list if proposed or existing pollution control mechanisms are expected to result in the attainment of water quality standards.

Identify “pollutant source” basins and reduce loading to potentially impaired waters: The primary strategy of SJRWMD for meeting the goals of the TMDL and Watershed Management process is to initiate new and/or continue existing programs aimed at reducing the discharge of stormwater pollutants to potentially impaired surface waters within the USJRB.

Existing Land use, GIS: GIS based tools will be used as appropriate to prioritize remedial treatment schedules.

Funding strategy: SJRWMD will continue its existing funding strategy that involves obtaining assistance through the following sources:

- Legislative initiatives
- Ad valorem
- Grants
- Federal funding
- SWIM funding
- Partnerships

SECTION E.

SCHEDULE & FUNDING REQUIREMENTS FOR RESTORATION AND PROTECTION

Using the “Strategies for Restoration or Protection” to accomplish the Initiatives and Strategies set forth in Section C, the following schedule and funding requirements have been devised.

In addition to this schedule, a program review will be undertaken every 3 years by SJRWMD to evaluate the outcome of ongoing and completed projects and Action Steps within each Initiative. The intent of this review is to identify opportunities to refine and enhance the SWIM Plan.

Water Quality Initiative (C.1.)

C.1.1. Strategy: Monitor water quality and plankton communities and assess trends.

Schedule & Funding (dollars shown in thousands)

Action Step	Time Frame (months)	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
1-Monitoring	60	\$130	\$130	\$135	\$140	140
2- Modify the existing water quality models and or develop additional water quality models.	48	\$25	\$25	\$25	\$25	
3-Complete a basin-wide analysis of water quality trends	24	\$30	\$30			
	Totals	\$185	\$185	\$155	\$165	\$140

C.1.2. Strategy: Improvement and Maintenance of Surface Waters

Schedule & Funding (dollars shown in thousands)

Action Step	Time Frame (months)	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
1- Work with FDEP in the development of a Basin Management Action Plan (BMAP) to meet established TMDLs	24	\$25	\$25			
2- Collect and assess information on dissolved oxygen (DO) to determine if impairments exist or if a Site Specific Alternative Criteria is appropriate.	36	\$90	\$90	\$60		
3- Construct and operate Fellsmere	60	\$6,000	\$6,000	\$6,000	\$3,750	\$3,750

Water Management Area so as to meet the established concentration goal for phosphorous in the downstream lakes.						
4- Collect and assess data on sediment nutrient levels.	48	\$20	\$20	\$20	\$20	
5- Construct a berm along the C-52 in Blue Cypress Water Management Area West in order to improve water quality and protect habitat.	12	500				
6- Prioritize problem areas identified in C.1.2 and develop projects to improve water quality	60	\$30	\$30	\$30	\$30	\$30
6- Operate and manage SLWMA to meet TMDLs in downstream lakes	60	\$45	\$45	\$45	\$45	\$45
Totals		\$6,710	\$6,210	\$6,155	\$3,845	\$3,825

Habitat Assessment, Protection and Restoration Initiative (C.2.)

C.2.1 Strategy: Hydrologic monitoring

Schedule & Funding (dollars in thousands)

Action Step	Time Frame (months)	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
1- Review hydrologic data collection network to identify any data gaps.	6	\$10				
2- Assess project hydrology to determine how well the environmental hydrologic criteria are being met	36	\$30	\$30	\$30		
3- Initiate project to decrease hydroperiods in Jane Green Swamp (Bull Creek Wildlife Management Area).	48	\$200	\$200	\$200	\$200	
4-Construct the Fort Drum hydrologic improvements and monitor hydrology.	48	\$20	\$20	\$20	\$20	
5-Design and construct SJMCA hydrologic improvements	36			\$60	\$100	\$100
Totals		\$260	\$250	\$310	\$320	\$100

C.2.2. Strategy: Develop hydrologic models which can accurately predict water levels during both high flow and low flow periods

Schedule & Funding (dollars in thousands)

Action Step	Time Frame (months)	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
1- Revise the upper basin hydrologic model	48	25	25	25	25	
2- Using modeled predictions, assess Environmental Hydrologic Criteria	36	30	30	30		
Totals		\$55	\$55	\$25	\$25	

C.2.3. Strategy: Assess biological resources of the basin and initiate monitoring to track changes

Schedule & Funding (dollars in thousands)

Action Step	Time Frame (months)	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
1- Complete development of a biological database	60	\$30	\$30	\$15	\$15	\$15
2- Collect and analyze data on wading bird use of Upper Basin habitats.	60	\$60	\$60	\$65	\$65	\$70
3- Complete vegetation mapping and spatial analyses to monitor vegetation change in the basin	36		\$140	\$140	\$90	
4- Initiate data collection and analyses of remaining biological metrics.	24			\$60	\$60	
5- Develop scientific information necessary to provide recommendations on leasing SJRWMD lands for grazing	24	\$20	\$30			
6- Review fire records for the basin and assess the role of the prescribed fire program in achieving biological goals	24	\$15	\$15			
Totals		\$125	\$275	\$280	\$230	\$85

C.2.4. Strategy: Acquire and restore lands necessary for flood protection, water resource protection and water supply

Schedule & Funding (dollars in thousands)

Action Step	Time Frame (months)	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
1- Complete the restoration of Banjo Groves	24	61.3	267.8			
2- In the area north of USACE project, acquire all available lands within the 10-year floodplain	60	TBD	TBD	TBD	TBD	TBD
3- Continue to acquire lands throughout the basin, as opportunities arise, in order to meet project goals	60	TBD	TBD	TBD	TBD	TBD
	Totals	\$61.3	\$267.8			

TBD = To be determined

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(USACE) U.S. Army Corps of Engineers. 1991. *Preliminary Water Control Manual- Central and Southern Florida Project for Flood Control and Other Purposes*. Jacksonville, FL.

ADDENDUM

In addition to the specific references cited, there are a number of recent publications on the St. Johns River, listed alphabetically by author below:

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Appendix I. Governmental Units & Implementation Partners

SJRWMD recognizes the importance of coordination with the many government agencies and other stakeholders that may be affected by, or have some jurisdiction over resources within the USJRB SWIM planning area. Governmental units that have jurisdiction over the USJRB and its drainage basin include Federal and State agencies and SJRWMD. Table 4 lists all agencies and stakeholders.

Agencies and Stakeholders	
Federal	
U.S. Army Corps of Engineers	U.S. Fish and Wildlife Service
U.S. Environmental Protection Agency	U.S. Forestry Service
U.S. Geologic Survey	Natural Resources Conservation Service
National Oceanic & Atmospheric Administration	
State	
Florida Department of Environmental Protection	Department of Community Affairs
Public Service Commission	Department of Health
Department of Transportation	Department of Agriculture and Consumer Affairs
Florida Fish and Wildlife Conservation Commission	
Regional	
SFWMD	Florida Inland Navigation District
North Central Florida Regional Planning Council	
Municipal	
Brevard County	Indian River County
Orange County	Seminole County
Unincorporated Communities	
None	
Stakeholders	
St Johns Water Control District	Fellsmere Water Control District
Delta Farms	SunAg, Inc.
Deseret Ranch	St. Johns River Alliance

SFWMD ERP State Report

DRAFT

Last Date For Agency Action: June 3, 2019

INDIVIDUAL ENVIRONMENTAL RESOURCE DENIAL STAFF REPORT

Project Name: Sunbreak Farms

Permit No.: 56-00111-S

Application No.: 180613-16

Application Type: Environmental Resource (Construction/Operation Modification)

Location: St Lucie County, S28, 33, 34/T33S/R38E
S3,4,5,8,9,10,15,16,17,20,21,29/T34S/R38E

Applicant : Sunbreak Farms L L C

Project Area: 80.75 acres

Project Land Use: Agricultural

Drainage Basin: C-25

Receiving Body: C-25

Class: CLASS III

Special Drainage District: NA

Conservation Easement To District : No

Sovereign Submerged Lands: No

DRAFT**PROJECT SUMMARY:**

This Environmental Resource Permit application requests Construction and Operation of a stormwater management (SWM) system to serve an 80.75 acre composting operation for a project known as Sunbreak Farms.

The proposed SWM system includes the construction of containment cells that will be used for on-site composting of aerobically digested and dewatered residuals with yard debris to produce Class AA compost pursuant to Florida Department of Environmental Protection Permit No. FLA979830. The Class AA compost material will be used onsite as a soil amendment and fertilizer for the existing agricultural production of row crops pursuant to Chapter 62-640 F.A.C. Please refer to the composting cell construction plans Exhibit 2.0 for details.

The applicant has not provided reasonable assurances that the project will not result in adverse impacts to water resources. The applicant did not provide the requested water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design of the stormwater management system will function properly as required by Section 4.9.3, Volume II of the Applicant's Handbook.

Staff is recommending denial of the application pursuant to the conditions of issuance Chapter 62-330.301 F.A.C. Specifically, the applicant has not demonstrated that construction, operation and maintenance of the project:

(e) Will not adversely affect the quality of receiving waters such that the state water quality standards set forth in chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated.

DRAFT**PROJECT EVALUATION:****PROJECT SITE DESCRIPTION:**

Refer to Exhibit 1.0 for a Location Map. The project is approximately 2.25 miles west of Interstate 95, north of the Florida Turnpike in St. Lucie County.

The site consists of existing row crops located within an agricultural project previously known as Cloud Grove. The majority of the property is located in St. Lucie County with the northern portion in Indian River County. The property includes a 640 acre above ground impoundment (AGI) used for storage of storm water for irrigation and flood protection. The AGI outfalls into an adjacent ditch that discharges to the C-25 Canal pursuant to Permit No. 56-00111-S. The SWM system also has the ability to discharge stormwater to the Minute Maid Canal, which discharges to the C-25 Canal.

BACKGROUND:

On October 19, 1978, the District authorized the operation (Application Nos. 21917, 21918, 21921) of an above ground impoundment for irrigation and flood protection of a 6,560 acre agricultural project known as Cloud Grove.

On June 29, 2006, the District authorized a permit transfer (Application No. 060127-19) to Florida Conservancy and Development Group LLC.

WATER QUANTITY :

The proposed operation of the SWM system associated with the composting containment cells includes a protocol to maintain the water table 1 foot below the lowest grade of the containment cells during composting.

Discharge Rate :

The project is located within the C-25 Basin which has a 10 year, 3 day design storm. The previously permitted design storm discharge rate remains unchanged.

The composting containment cells will retain 11.0 inches of rainfall within the cells associated with the 100 year, 3 day design storm event. Thus, the existing SWM system and 640-acre above ground impoundment will not receive storm water runoff from the composting area associated with 10 year, 3 day C-25 Basin design storm event.

The applicant provided an annual storm water runoff analysis which indicates the annual volume of storm water runoff will be reduced. The proposed project is intended to result in less annual storm water runoff volume and a reduction in the peak rate of storm water runoff from design storm event resulting in less discharge from the SWM system.

DRAFT**WATER QUALITY :**

The applicant has provided the following:

- 1) The proposed project area will retain 11.0 inches (74 ac-ft) of storm water runoff from the 80.75 acre composting containment cells associated with the 100 year, 3 day design storm event.
- 2) The applicant provided a water quality analysis based on the proposed agronomic practices.

The applicant has not provided the requested water quality monitoring plan and reporting schedule designed to provide data to determine if the pollution abatement practices incorporated into the design of the SWM system will function properly. Section 4.9.3, Volume II of the Applicant's Handbook provides for requiring water quality monitoring for two reasons: 1) such data can be used to determine if the pollution abatement practices incorporated into the design for SWM system are functioning properly, 2) In some cases there may be a real and immediate concern regarding degradation of quality in the receiving waters, regardless of the apparent pollutant removal efficiency of the SWM system.

The intent of the water quality monitoring plan and reporting schedule is to develop sets of data that can be analyzed to determine if pollution abatement practices are functioning properly after the implementation of the biosolids composting activity at Sunbreak Farms. The water quality monitoring plan and reporting schedule should include, at a minimum: an explanation of how the proposed program will achieve valid measurements of flow, bacteria, nitrogen, phosphorus, and dissolved oxygen concentration; description of monitoring sites which should include on-site and off-site locations; sample collection methods, technique, preservation, identification and schedules; description of laboratory facilities, analyses, reporting delivery and data review; and other items as necessary to determine if the pollution abatement practices incorporated into the design are functioning properly and will prevent water quality degradation. The plan and schedule should be implemented at least six (6) months prior to the deliveries of biosolids to the site. The proposed plan should also include the recordation of pumped discharges (times, rates, and durations) from all stormwater discharge facilities located on the farm site. A time period for the monitoring and reporting should be defined within the plan, to be no less than five years. The plan and schedule must be submitted to the District for review and approval, prior to implementation.

WETLANDS:**Wetlands And Other Surface Waters:**

There are no wetlands or other surface waters located within the project area or affected by this project.

DRAFT

RELATED CONCERNS:

Third Party Interest:

The following third parties have contacted the District with concerns about this application:

St. Lucie County
Indian River County
St. Johns River Water Management District
State Representative Larry Lee, Jr.
David Dee, Esq.
PGA Village Property Owners Association, Virginia Sherlock Esq.

District staff have coordinated several meetings with the applicant and the third parties to address questions and concerns.

Enforcement:

There has been no enforcement activity associated with this application.

DRAFT**STAFF RECOMMENDATION TO EXECUTIVE DIRECTOR:**

The Staff recommends the following:

Denial of the application for Construction and Operation of a stormwater management system serving an 80.75 acre composting operation for a project known as Sunbreak Farms.

STAFF REVIEW:**NATURAL RESOURCE MANAGEMENT APPROVAL****ENVIRONMENTAL EVALUATION****SUPERVISOR**

Jessica Huffman

Barbara J. Conmy

SURFACE WATER MANAGEMENT APPROVAL**ENGINEERING EVALUATION****SUPERVISOR**

Glen J. Gareau, P.E.

Gary Priest, P.E.

ENVIRONMENTAL RESOURCE COMPLIANCE BUREAU CHIEF :

Ricardo A. Valera, P.E.

DATE: _____

REGULATION DIVISION ASSISTANT DIRECTOR :

Anthony M. Waterhouse, P.E.

DATE: _____

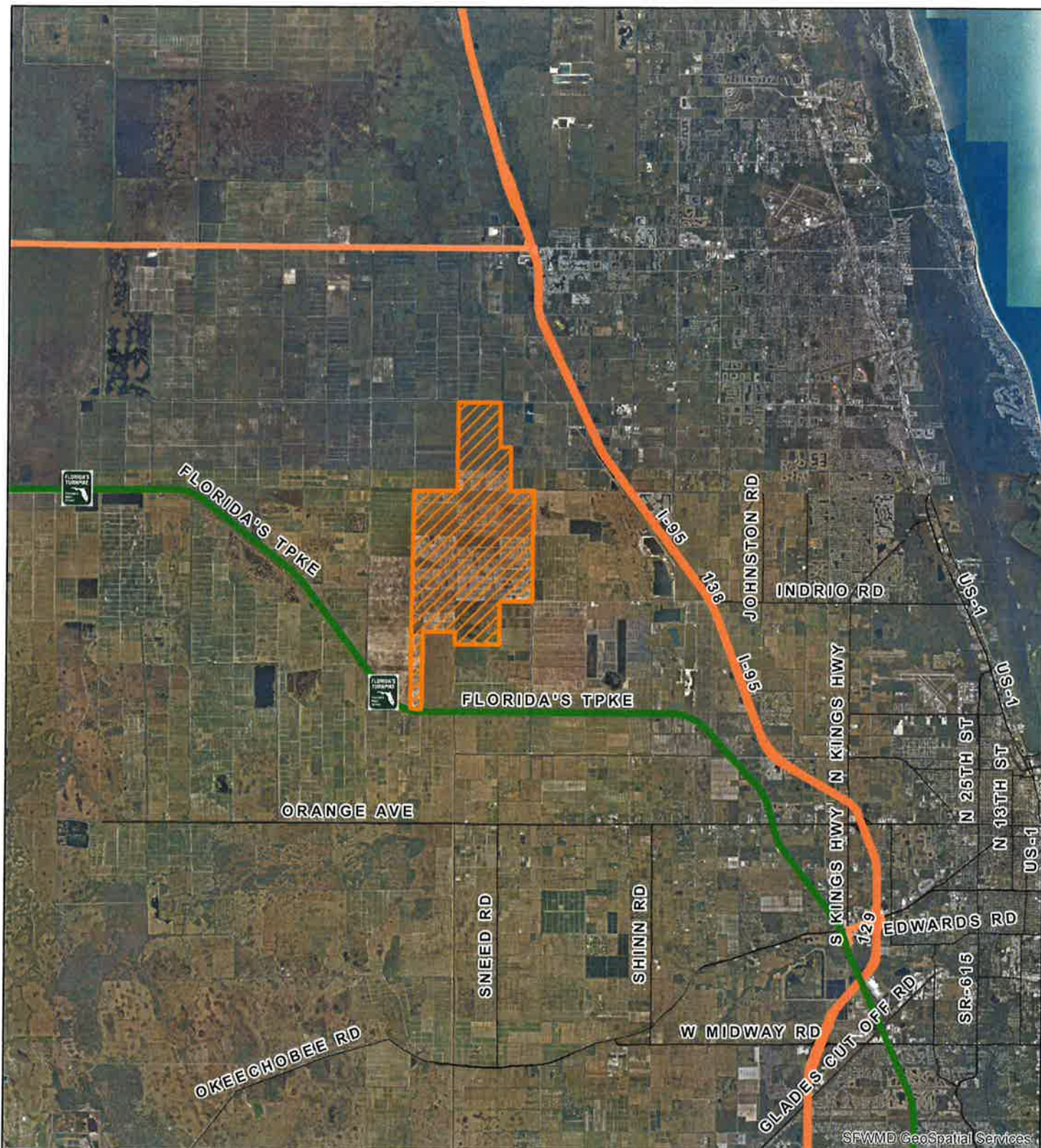





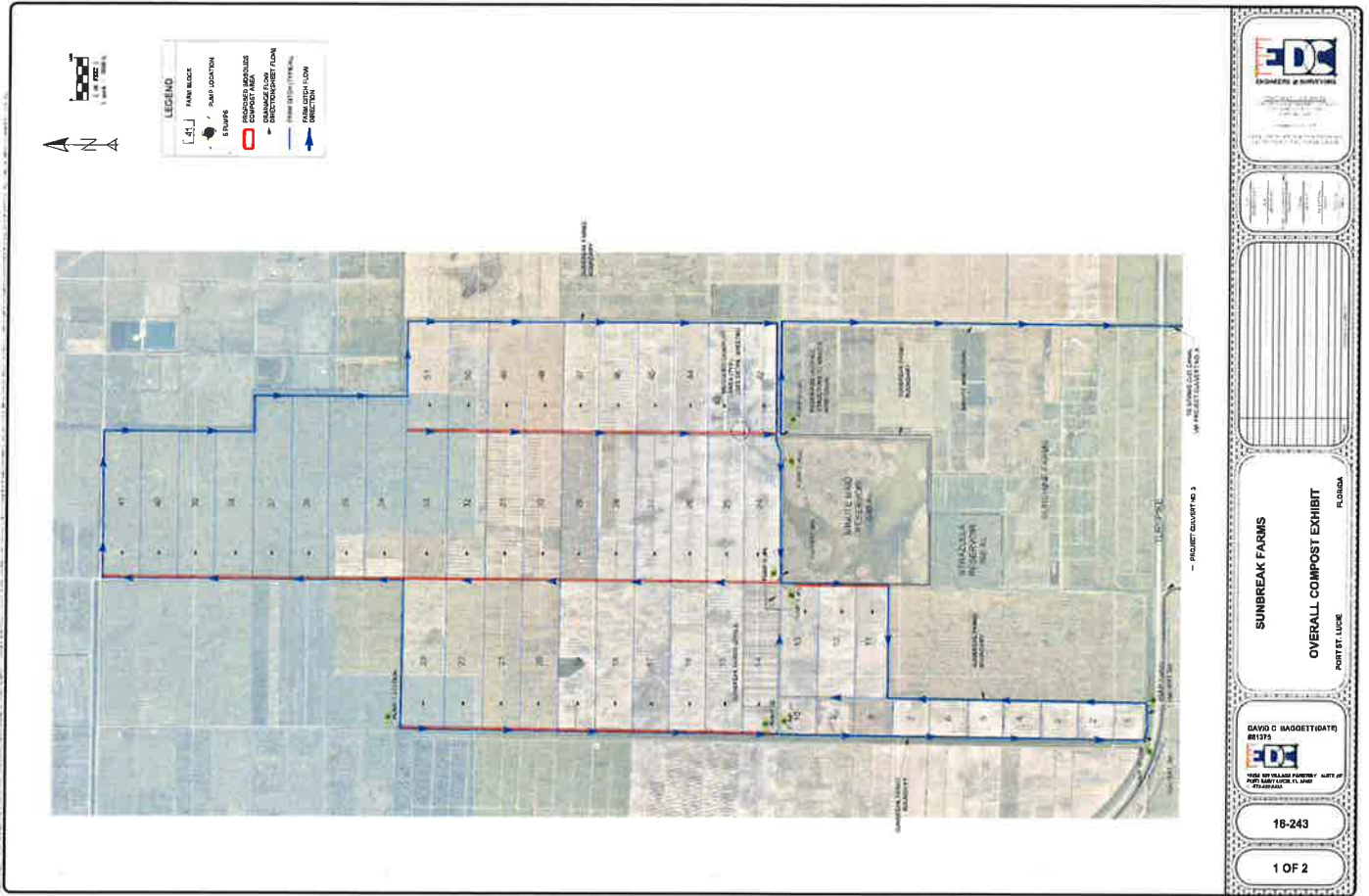
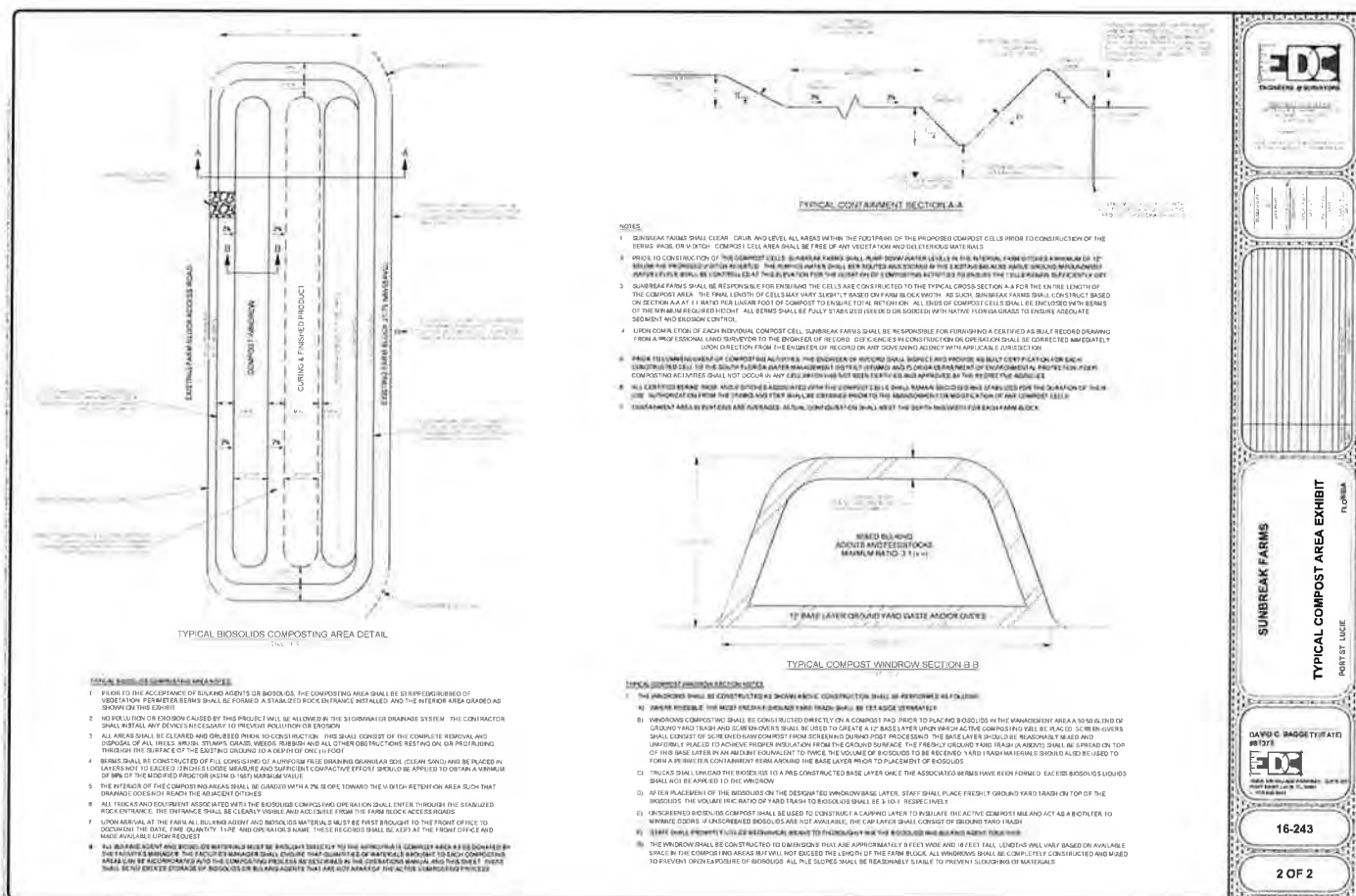


Exhibit No: 1	Exhibit Created On: 2018-07-17	ST. LUCIE COUNTY, FL	 Application
<p align="center">REGULATION DIVISION</p> <p align="center">Project Name: SUNBREAK FARMS</p>			<p>Permit No: 56-00111-S</p> <p>Application Number: 180613-16</p> 
 <div style="display: flex; align-items: center;"> <div style="flex: 1;"> <p>0 2.5 5</p> <p>Miles</p> </div> <div style="flex: 0.5; text-align: center;"> <p>N</p>  </div> </div>			 <p>South Florida Water Management District</p>





STAFF REPORT DISTRIBUTION LIST

SUNBREAK FARMS

Application No: 180613-16

Permit No: 56-00111-S

INTERNAL DISTRIBUTION

- X Glen J. Gareau, P.E.
- X Jessica Huffman
- X Gary Priest, P.E.
- X Barbara J. Conmy
- X Tony Waterhouse, P.E.
- X Randy Smith
- X Susan Martin
- X Ansley Marr
- X Jill Creech, P.E.

EXTERNAL DISTRIBUTION

- X Permittee - Sunbreak Farms L L C
- X Engr Consultant - Engineering Design & Construction Inc
- X Other Interested Party - Gardner, Bist, Bowden, Bush, Dee, Lavia & Wright, P.A.
- X Other Interested Party - Indian River County
- X Other Interested Party - Pga Village Poa Inc.
- X Other Interested Party - State Rep.

GOVERNMENT AGENCIES

- X City of Port St Lucie - Planning Div
- X City of Port St Lucie - Public Works
- X St. Lucie County Engineer
- X St. Lucie County Planning and Development Services
- X US Army Corps of Engineers Permit Section

**STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

SUNBREAK FARMS, LLC,
a Delaware limited liability company.

**RECEIVED
DISTRICT CLERK'S OFFICE
12:16 pm Jul 18, 2019**

Petitioner,

SFWMD No.

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT**

vs.

ERP No. 56-00111-S
(Application No. 180613-16)



**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,**
a public corporation of the State of Florida,

Respondent.

_____ /

MOTION TO ABATE

SUNBREAK FARMS, LLC, ("Sunbreak Farms"), by and through its undersigned counsel, hereby submits this Motion To Abate and states as follows:

1. This matter is currently pending before the South Florida Water Management District, pursuant to the petition filed by Sunbreak Farms.
2. Three Petitions to Intervene have been filed in this case.
3. Sunbreak Farms respectfully requests a 60 day abatement of this matter, the petition to be held at the South Florida Water Management District until the end of the abatement, to allow Sunbreak to consider and review the status of this matter and its options with regard to the requested permit.
4. Proposed intervenor St. Lucie County does not object to this request. Proposed intervenor Indian River County does not object to this request. Proposed intervenor St. Johns River Water Management District adopts the position of the staff of the South Florida Water Management District.
5. Nothing in this request will prejudice the public, District, nor the proposed intervenors.

Wherefore, Sunbreak Farms respectfully requests the abatement as requested herein.

Respectfully submitted this 18th day of July, 2019.

DEAN, MEAD, & DUNBAR

/s/ John L. Wharton
John L. Wharton
Dennis G. Corrick
215 S. Monroe St., Suite 815
Tallahassee FL
Phone: (850) 999-4100
Fax: (850) 577-0095
jwharton@deanmead.com
Secondary: hschack@deanmead.com
Attorneys for Petitioner

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed by electronic mail with South Florida Management District, c/o **Office of the District Clerk** Clerk@SFWMD.gov with copies served electronically to **Susan Roeder Martin**, South Florida Water Management District SMartin@SFWMD.gov **David Dee**, St. Lucie County, ddee@gbwlegal.com; **Dylan Reingold**, Indian River County, dreingold@ircgov.com; **Thomas Mayton**, St. Johns River Water Management District, TMayton@sjrwmd.com; **Dennis Corrick**, Sunbreak Farms LLC, DCorrick@deanmead.com on this 18th day of July 2019.

/s/ John L. Wharton
John L. Wharton